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A Companion to Marsilius of Padua

Edited by

Gerson Moreno-Riaño and Cary J. Nederman



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INTRODUCTION

Gerson Moreno-Riaño and Cary J. Nederman

Who was Marsilius of Padua? Was he a prophet or a crackpot? A brilliant though misguided man, a devious and self-promoting heretic, or a blaspheming son of Satan? Was Marsilius simply a product of his Paduan commune or did he articulate a political philosophy grounded in historical circumstances yet which to some degree transcends them? In short, was Marsilius a political philosopher who developed important ideas? Or, to borrow the words of John Maynard Keynes, was he merely an “academic scribbler of a few years back?”¹ The irreconcilable judgments implied by these questions illustrate the polarizing and somewhat mysterious character of Marsilius of Padua’s life and works.

Marsiglio dei Mainardini, commonly known by the Latinized version of his name, Marsilius, was born sometime between 1275 and 1280 in the commune of Padua. While some facts are known regarding Marsilius’ life prior to the completion of his main treatise—the *Defensor pacis*—in June 1324, most of what is now discussed concerns his political ideas and activities.² Numerous scholarly treatments of the *Defensor pacis* and its ideas exist.³ If one relied solely on this as

¹ John Maynard Keynes, *The General Theory of Employment, Interest, and Money* (New Delhi, 2006), p. 351.

² Among the earliest accounts of Marsilius’ life are James Sullivan, “Marsiglio of Padua and William of Ockham,” *American Historical Review* 2 (1896/67), 409–26 and 593–610; Noël Valois, “Jean de Jandun et Marsile de Padoue, auteurs du *Defensor pacis*,” *Histoire littéraire de la France* 33 (1906), 528–623; and Charles K. Brampton, “Marsiglio of Padua, Life,” *English Historical Review* 37 (1922), 501–15. An extensive treatment of Marsilius’ life and place within medieval political thought can be found in Alan Gewirth, *Marsilius of Padua and Medieval Political Philosophy* (New York, 1951). The most respected biographical account appears in Carlo Pincin, *Marsilio* (Turin, 1967), which should now be supplemented by Frank Godthardt, “The Philosopher as Political Actor—Marsilius of Padua at the Court of Ludwig the Bavarian: The Sources Revisited,” in *The World of Marsilius of Padua*, ed. Gerson Moreno-Riaño (Turnhout, 2006), pp. 29–46.

³ For extensive bibliographies, see Georges de Lagarde, *La naissance de l’esprit laïque au déclin du moyen âge*, vol. 2: *Marsile de Padoue, ou le premier théoricien de l’État laïque* (Paris, 1948); Cary J. Nederman, “Afterword,” in Marsilius of Padua, *Defensor pacis*, trans. Alan Gewirth (New York, 2001), pp. 455–58; and Carlo Dolcini,

evidence of Marsilius' significance, one could reasonably conclude that he was one of the most important thinkers of the late Middle Ages. Indeed, the commissioning of this Companion testifies to the enduring place that the Paduan's political ideas occupy in the canon of Western political thought.

The production of a volume to complement the works of any particular thinker suggests that it serves as an essential window into that thinker and his or her world. In the case of Marsilius, such a presupposition implies that it is possible to look at his fourteenth century context and better understand the various contributing historical and intellectual factors that influenced his writings and activities. Further, it also suggests that it is not presumptuous to pursue an approximate understanding of what Marsilius actually believed and argued. In short, a Companion volume such as this one assumes that Marsilius had something meaningful to say and that perhaps something can be learned from him and his times. To claim that knowledge about the past is possible and that the past is to some degree relevant for the future is to engulf oneself in a contentious quagmire. Scholars working in the history of political thought—including intellectual historians, political scientists, and philosophers—assume the validity of some particular interpretative strategy which they use to study the past. Such strategies provide the frameworks from which interpretations are constructed and supported and from which, ultimately, understanding and meaning are acquired. Interpretive differences may at times be rooted in questions of fact. These differences are thus easy to clarify and diminish. Differences based not on questions of fact but on historiographical or philosophical grounds are much more difficult, if not impossible, to ameliorate. In addition, one must not forget that the study of the past is a messy business. What appear to be simple questions of fact are not always so. Thus, to arrive at a plausible and approximate understanding

Introduzione a Marsilio da Padova (Rome, 1995). Some of the most recent treatments of Marsilius of Padua's political thought and world are found in Bernardo Bayona Aznar and Pedro Roche Arnas, *Sobre el Poder del Imperio y del Papa: El defensor menor, La transferencia del Imperio* (Madrid, 2005); Bettina Koch, *Zur Dis-/Kontinuität mittelalterlichen politischen Denkens in der neuzeitlichen politischen Theorie: Marsilius von Padua, Johannes Althusius und Thomas Hobbes im Vergleich* (Berlin, 2005); George Garnett, *Marsilius of Padua and the Truth of History* (Oxford, 2006); *The World of Marsilius of Padua*, ed. Gerson Moreno-Riaño; Vasileios Syros, *Die Rezeption der aristotelischen politischen Philosophie bei Marsilius von Padua* (Leiden, 2007); and Francesco Maiolo, *Medieval Sovereignty: Marsilius of Padua and Bartolus Saxo-ferrato* (Deft, 2007).

of who a political thinker was and what this thinker actually meant entails the “scrupulous concern for just treatment of dead historical agents.”⁴ Even more, it also requires interpreters to hold their own historiographical lens loosely lest they impose an anachronistic vision upon the past and thus construct a reality that, while self-affirming, is much more fiction than reality.

The present Companion attempts to provide insight into the life and works of Marsilius of Padua based on meticulous attention to historical and scholarly detail. This “scrupulous concern for [a] just treatment” of Marsilius of Padua allows for an interpretive framework that welcomes the complexity of a political thinker and actor. Rather than forcing this complexity into a theoretical construct that produces a patina of clarity and uniformity, the current volume presents and evaluates the numerous causal layers and events that encompassed Marsilius’ life and works. The overall portrait of Marsilius that emerges is based on a composite derived from each specific dimension examined in the chapters contained in this volume. Much like a photographic mosaic or montage, the entire Companion provides a comprehensive characterization of Marsilius. While it may be possible to surmise the character of Marsilius and the import of his life and works from one or a few of these unique and distinct treatments, it is the careful consideration of all of the chapters taken together that allows one to begin to propose a plausible answer to the question: “Who was Marsilius of Padua?”

It is important to note that Marsilius of Padua lived and worked within the parameters of medieval Europe and medieval Christianity. For all intents and purposes, despite his highly controversial views, Marsilius adhered to the Christian religion. One finds no evidence in his writings of a contrary conclusion. As a medieval Christian, Marsilius’ works and life are an example of one medieval answer to the important question that the medieval era posed for its Christian inhabitants: how should one live according to Jesus’ teaching in the Gospels? As Paolo Delogu reminds us, pursuing an answer to this question was no easy feat given the fact that “the history of medieval Christianity is one of constant crisis and change, in which both Church and faithful struggled to perfect their pursuit of the Christian life, without

⁴ Richard T. Vann, “Historians and Moral Evaluations,” *History and Theory* 43 (2004), 3–30.

ever achieving a definitive end or satisfactory institutional solutions.”⁵ This means that the life and works of Marsilius may be considered as attempts to provide a Christian argument and example concerning questions of politics, ecclesiastical governance, and Church doctrine, an argument and example that would satisfactorily answer the question of living according to Jesus’ teaching in the Gospels. Obviously, Marsilius’ arguments and actions were contested. But there is no reason to doubt the sincerity and authenticity of his Christian convictions as they are integrated into a framework to address actual historical dilemmas while still remaining true to his understanding of the Christian faith and Scriptures.⁶

The current volume considers Marsilius’ life and works from the vantage point of four distinct areas: biographical details; intellectual sources; political, theological, and ecclesiastical doctrines; and works and reception after the *Defensor pacis*. Each section of this volume focuses on one of these areas and attempts to provide a thorough description of specific aspects of Marsilius’ life and works. But these descriptions are only a partial objective for each section. The ultimate goal of each section is to offer plausible interpretive contexts that assist students and scholars of medieval political thought to understand why Marsilius behaved as he did. One such meta-context has already been suggested, viz., the application of Jesus’ teachings in the Gospels within the realities of the Middle Ages. Within this meta-narrative, each section of this volume explores sub-narratives that together, it is hoped, provide a clear view of the Paduan thinker and political actor.

The chapters that consider the biographical details of Marsilius of Padua focus upon two important aspects of Marsilius’ life. First, Frank

⁵ Paolo Delogu, *An Introduction to Medieval History*, trans. Matthew Moran (London, 2002), p. 74. Delogu suggests that the question of how to live according to Jesus’ teaching in the gospels is a key lens through which to understand medieval Christianity.

⁶ Marsilius’ political, theological, and ecclesiastical arguments are unique and innovative, but in no way do they fall outside of the perimeter of medieval Christianity or of the Middle Ages. As R.W. Carlyle and A.J. Carlyle noted a century ago, Marsilius “is not, as appears to be thought by some writers who are not very well acquainted with mediaeval political literature, setting out some new and revolutionary democratic doctrine, but is rather expressing, even if in rather drastic and unqualified terms, the normal judgment and practice of the Middle Ages: he represents not the beginning of some modern and revolutionary doctrine, but the assertion of traditional principles” (R.W. Carlyle and A.J. Carlyle, *A History of Medieval Political Theory in the West*, 6 [London, 1910], p. 9).

Godthardt provides a detailed biographical sketch of Marsilius' entire life. While Godthardt's meticulously detailed chapter is a biographical portrait, his primary focus is the consideration of Marsilius as a political actor. As Godthardt notes, most commentators and students of the Paduan have given little attention to Marsilius' declared intentions to realize his theories and prevent injustice through his own actions.⁷ This move from "theory to praxis" provides an alternative rival historical hypothesis to the traditional view that Marsilius was forced to flee Paris for the court of King Ludwig IV of Bavaria. It suggests that Marsilius' departure from Paris was voluntary and initiated his attempts to apply his theories in the *Defensor pacis* to real political situations. This would thus help to explain Marsilius' role in the imperial coronation, his persecution of clergy who obeyed the interdict in Rome, his involvement in the enthronement of the antipope Nicholas V, and his substantial influence in the royal court of Ludwig the Bavarian. It is a testament of Marsilius' influence on Ludwig and the latter's respect for the Paduan that Ludwig never removed his royal protection for the Italian political thinker.

Supplementing Godthardt, William J. Courtenay provides an in-depth exploration of Marsilius' association with Paris, its university, and some of its important personages. While Padua may have been important in Marsilius' life, Courtenay suggests that "the crucial period for the germination and writing of *Defensor pacis*" occurred during Marsilius' time at the University of Paris. While Courtenay is concerned with analyzing the place of Paris in Marsilius' biography, one cannot deny that Paris served as an important intellectual and sociological source for Marsilius' thought and action. It is certain that he studied under the great Peter of Abano, though it is difficult to ascertain whether this occurred in Paris or Padua. But it was at Paris that Marsilius encountered Nicolaus Ceccano, John of Jandun, Radulphus Brito, Bartholomew of Bruges, and a number of other important secular masters. Marsilius' close associates during his time in Paris were students in theology and medicine, and masters in the faculty of medicine at the university.

A further chapter examines some important and underappreciated sources of Marsilius' doctrines. Takashi Shogimen sets out to survey the influence of Marsilius' medical training and background on his

⁷ Marsilius of Padua, *Defensor pacis* I.19.13.

political ideas, a topic that has received relatively little attention in the scholarly literature. It is known that Albertino Mussato advised the Paduan to study medicine and that the latter did so for a time under the tutelage of Peter of Abano. Further, the *Defensor pacis* contains numerous organic analogies that appear to presuppose some medical knowledge. But, as Shogimen rightly notes, Marsilius does not cite any medical authority within the text of the *Defensor pacis*. This may help to explain the relative silence of scholars concerning the relationship between Marsilius' medical training and his political thought. But these analogies still exist and must somehow be explained. Shogimen suggests that traditional explanations of the use of organic analogies in the Middle Ages relegate these to "ornamental language" or rhetorical tools with no conceptual functions. Citing cognitive linguistics, Shogimen makes a compelling case that such analogies or metaphors serve as conceptual tools to map one conceptual-experiential domain upon another. The organic metaphors within *Defensor pacis* are thus not rhetorical ornaments but conceptual maps between medicine and politics. Such maps provide strong empirical evidence that medicine and Marsilius' medical training are important intellectual sources for the *Defensor pacis* and could help to explain the natural political theory of the Italian political thinker.

The next section of the Companion considers Marsilius as a political, theological, and ecclesiastical thinker and thus exhibits the most overlap within each contributing chapter. Most Marsilian scholarship considers the Paduan as political thinker. The editors' own contribution in this section describes Marsilius' key political doctrines and influential interpretations of his political thought. The *Defensor pacis* provides clear evidence of Marsilius' commitment to consent, power, and political voluntarism as key aspects of a healthy and well-governed polity.⁸ Further, Marsilius evinces an entrenched commitment to the rationality and natural goodness of human beings, suggesting that only a few are naturally corrupted. Marsilius' emphasis on "action" in Discourses I and III gives much support to the claims of a large number of scholars regarding both the polemical nature of the *Defensor pacis* and Marsilius' own political aspirations. Marsilius pens a "generic" theory

⁸ For an elaboration of these tenets within Discourse III of the *Defensor pacis*, see Gerson Moreno-Riaño, "Marsilius of Padua's Forgotten Discourse," *History of Political Thought* 29 (2008), 441–59. The comments below are indebted to parts of this article.

of politics amenable and adaptable to a diverse audience, given its foundation in human rationality and volition, universal human characteristics that would resonate with any audience.⁹ Marsilius' emphasis on the human legislator and the general council substantiate his support for consent as well as his support for nearly limitless politics. It is clear that Marsilius considers voluntary consent to be crucial for peace and good government. While this consent is based on the aggregate of individuals within a community, its legitimacy is rooted in its communal expression, not its individual makeup. For Marsilius, individuals apart from the community are private persons and lack any inherent and inalienable moral claims against the community, the human legislator, and the general council apart from those related to issues of conscience, and even here there may be exceptions. Once the aggregate of individuals within a community gives its consent, they are no longer treated as a multitude on whose express will government is based but are considered as isolated individuals subject to a potentially all-encompassing government that they themselves have authorized.¹⁰

While there are a number of political and ecclesiological doctrines within the *Defensor pacis*, Bettina Koch suggests that the relationship between religious and secular power is the major thrust of Marsilius' political thought. How Marsilius understands the relationship between the spiritual and temporal or between *imperium* and *sacerdotium* is at the core of his theoretical work and provides evidence of his conciliar theory. Far from separating the temporal and spiritual, suggests Koch, Marsilius relates the two through the integration and subordination of the spiritual realm to the rule of law. This is clearly accomplished through Marsilius' general council. For Koch, this council is not just a means through which to limit the autonomy of the Church and its leaders and thus substantiate the power of the "state." Rather, it is a mechanism that attempts to amalgamate the realms of grace and law. The political community thus facilitates spiritual life within its political

⁹ For the "generic" thesis, see Cary J. Nederman, *Community and Consent: The Secular Political Theory of Marsiglio of Padua's Defensor Pacis* (Lanham, MD, 1995).

¹⁰ In chapter 3 of Discourse III of *Defensor pacis*, Marsilius does suggest that this all-encompassing government, or its lawful representative, should be subject to the rule of law. But this appears to be circular reasoning since it is the "whole body of citizens" or the human legislator that create the law. Consequently, the human legislator is bound to obey its own will. How this can serve as a remedy against tyranny is difficult to conceive.

responsibilities, though it does not force the spiritual upon any individual, since to do so is the latter's sole voluntary responsibility.

Most expositors of Marsilius of Padua examine the latter's ecclesiology in strict relationship to his political doctrines. Thus, Marsilius' ecclesiology is considered to be a function of his political thought and not an independent area of study, which leads to a general and uncritical consensus that the Paduan was solely a political thinker and actor. But, Michael Sweeney asks, is it possible to think of Marsilius of Padua as a theologian and ecclesiologist? Does Marsilius advance a coherent set of theological and ecclesiastical doctrines? Sweeney provides a meticulous and persuasive argument that Marsilius is first and foremost a theologian and is secondarily a political philosopher. For Sweeney, the core of Marsilius' theology and ecclesiology lies in the Paduan's *sola littera* approach to the Christian Scriptures. The spirituality of the Church is to be found in the literal understanding of the Scriptures—a binding understanding—and a return to the life of Christ. The general council has the authority to establish the literal meaning of the Scriptures, a meaning that serves as the spiritual meaning for all believers. Marsilius' *sola littera* approach has profound consequences for his understanding of the Scriptures, salvation, and grace, the sacraments of the Church, and the account of grace in the Pauline epistles. Furthermore, as Sweeney argues, Marsilius' account of the Church is consistently theological and thus provides evidence that he was sincere in his treatment of the Church as a spiritual institution with an other-worldly mission.

The last chapter in this section describes Marsilius' position concerning the debate about voluntary poverty that engulfed much of Christendom in the early fourteenth century. Roberto Lambertini, in concurrence with Sweeney, argues that most scholars consider Marsilius' political theory as the primary object of analysis and too quickly overlook other "non-political" themes. Whereas Sweeney argues for the importance of *sola littera* in regards to Marsilius' ecclesiology, Lambertini considers Marsilius' discussion of meritorious poverty as the cornerstone of his ecclesiology. Lambertini surveys modern debates and interpretations of Marsilius' position on ecclesiastical poverty and provides an exposition of Marsilius' own arguments that demonstrates the Paduan's *determinatio* treatment of the problem. Marsilius' solution is unique and peculiar, Lambertini suggests, since he clearly attempts to craft an independent position based on arguments from both secular and mendicant sides. Furthermore, while Marsil-

ius in general concurs with the Franciscans, he also demonstrates his independence by providing an argument that not only differed from them on several important points but also was consistent with his own ecclesiological assumptions.

The last section of this Companion focuses upon Marsilius' later career and the reception of the *Defensor pacis*. It would not be incorrect to state that the weightier part of Marsilian scholarship has been devoted to the first *Defensor*. Marsilius' *Defensor minor* and *De translatione Imperii* have often been treated almost as appendices to the *Defensor pacis*. The fact that both of these works were only fully edited toward the end of the twentieth century perhaps testifies to the relative unimportance which scholars ascribed to them. While it may be correct to suggest that the *Defensor minor* is a more precise application of various tenets of Marsilius' main work and that *De translatione imperii* is a "minor" Marsilian work, Gianluca Briguglia's chapter demonstrates how both of these works are important in their own right and deserve independent scholarly attention. Briguglia strongly argues that in these writings as well as in three other works attributed to Marsilius,¹¹ the Paduan thinker transforms his ideas into tools to serve the emperor. Whether or not this compromises the scholarly legitimacy of Marsilius' minor works is not clear. While the *Defensor minor* coheres well with its major counterpart, Briguglia notes that Marsilius develops a new political and ecclesiological theme, namely, the reconstruction of the ecclesiastical unity between the Greeks and the Latins. Briguglia's reading of the *Defensor minor* offers added evidence that Marsilius continued to view his political theory as relevant and applicable to contemporary problems at hand. *De translatione Imperii*, in contrast, may suggest that Marsilius went beyond merely applying his political theory to address political realities. Briguglia suggests that *De translatione* provides evidence of Marsilius' interest in the historical transfer of power and empire but only insofar as it can be reconstructed and recast within the Paduan's political vision as articulated in the *Defensor pacis*. Briguglia thus presents Marsilius as a revisionist medieval historian.

¹¹ These minor writings are, in essence, expert opinions concerning marital questions. They are the *Forma divorcii matrimonialis*, the *Forma dispensacionis*, and the *Tractatus consultacionis*. All of these appear in Pincin, *Marsilio*.

The final chapter of the volume attempts to trace the reception of Marsilius' works in the fifteenth, sixteenth, and early seventeenth centuries. As Thomas Izbicki rightly notes in his chapter, determining the impact and influence of a thinker's works is difficult to accomplish. In the case of Marsilius this is even more so, since it is hard to disentangle Marsilius' actual influence from his role as a papalist bogeyman. Izbicki demonstrates that Marsilius' impact can be traced on the basis of geography to areas where there was a general resentment toward the papacy. The typographical diffusion of Latin printings of the *Defensor pacis* persisted well into the seventeenth century in places that were "unfriendly" toward the papacy. Izbicki shows that Marsilius' work is much more visible during the sixteenth and seventeenth centuries in the writings of Catholic apologists, Counter-Reformation polemicists, and Protestant apologists, but he notes that too often critics of Marsilius never actually read *Defensor pacis*, instead relying solely on its condemnation in the 1327 bull of Pope John XXII, *Licet iuxta doctrinam*.¹² Thus, while Marsilius is cited heavily in the polemical debates of the seventeenth century, it remains difficult to ascertain just how seriously Marsilius' critics and allies considered and studied his writings.

In closing, it is noteworthy to recall Friedrich Nietzsche's argument in *Human, All Too Human* that "all philosophers make the common mistake of taking contemporary man as their starting point and of trying through an analysis of him, to reach a conclusion."¹³ A recent commentator¹⁴ on Marsilius' *Defensor pacis* has accused modern interpreters of, in essence, doing what Nietzsche accused his contemporaries of doing: injecting the present into all of the past and thus suggesting a conclusion about the past. As was mentioned earlier, a volume such as this one presupposes the ability to look into the past and acquire a glimpse, a view, even a rough portrait, of the life and works of a political thinker. This presupposition is not based on a faulty presentism covered with a veneer of the past. It is based upon hard-nosed research, exploration, and evaluation of historical sources, contexts, and the basic belief that all human beings live, work, and act

¹² On the question of some of Marsilius' fourteenth-century critics not reading the *Defensor pacis* but condemning the work, see Frank Godthardt. "The Condemnation of Marsilius of Padua's *Defensor Pacis* Revisited," paper presented at the International Medieval Congress, University of Leeds, 15 July 2009.

¹³ Friedrich Nietzsche, *Human, All Too Human* (Chicago, 1915), pp. 20–21.

¹⁴ George Garnett, *Marsilius of Padua and 'the Truth of History'*.

with not only a sense of the present in mind but also a sense of the future. Marsilius of Padua can and should be considered a great political thinker because he articulated a powerful and innovative response to the problems of his day, a response which he believed would serve his audience well into the future. Marsilius was not imprisoned by the historicism of today that would relegate ideas to isolated and disconnected poles of existence. Marsilius was and is a part of a long lineage of great thinkers who believe their works are relevant not only for their contemporaries but also for posterity. The existence of this Companion is a testament that perhaps Marsilius was right in this belief.

CHAPTER ONE

THE LIFE OF MARSILIUS OF PADUA

Frank Godthardt

(Based on the English Translation by Cornelia Oefelein)

Marsilius of Padua's biography is generally referred to, even in a recent study, as being "well-worked territory."¹ And indeed, studies and accounts of his life, a *vita* as extraordinary as his writings, abound.² It is not my goal to give an encyclopedic summary of all current scholarship on the life and influence of Marsilius. I shall, however, sketch the major stations in his biography and shall introduce some new material as well, which in part differs from or extends beyond discussions of previous investigations. Thus, this chapter's account of Marsilius' life within the limits set by its length will necessarily be selective, highlighting in particular recent discoveries.³

¹ William J. Courtenay, "University Masters and Political Power: The Parisian Years of Marsilius of Padua," in *Politische Reflexion in der Welt des späten Mittelalters: Political Thought in the Age Scholasticism: Essays in Honour of Jürgen Miethke*, ed. Martin Kaufhold (Leiden, 2004), pp. 209–23, here p. 209.

² Some of the most important are Sigmund Riezler, *Die literarischen Widersacher der Päpste zur Zeit Ludwigs des Baiern: Ein Beitrag zur Geschichte der Kämpfe zwischen Staat und Kirche* (Leipzig, 1874; repr. New York, 1961), pp. 30–41; Noël Valois, "Jean de Jandun et Marsile de Padoue, auteurs du Defensor pacis," *Histoire littéraire de la France* 33 (1906), 528–623; Charles Kenneth Brampton, "Marsiglio of Padua. Part 1: Life," *English Historical Review* 37 (1922), 501–15; Johannes Haller, "Zur Lebensgeschichte des Marsilius von Padua," *Zeitschrift für Kirchengeschichte* 48 (1929), 166–97; Charles William Previté-Orton, "Marsilius of Padua," *Proceedings of the British Academy* 21 (1935), 137–83; Ludwig Schmugge, *Johannes von Jandun (1285/89–1328): Untersuchungen zur Biographie und Sozialtheorie eines lateinischen Averroisten* (Stuttgart, 1966), pp. 26–38; Carlo Pincin, *Marsilio* (Turin, 1967); Carlo Dolcini, *Introduzione a Marsilio da Padova* (Rome, 1995); and Jürgen Miethke, *De potestate papae: Die päpstliche Amtskompetenz im Widerstreit der politischen Theorie von Thomas von Aquin bis Wilhelm von Ockham* (Tübingen, 2000), pp. 204–47.

³ This chapter is based upon results presented in my dissertation, *Marsilius von Padua und der Romzug Ludwigs des Bayern: Politische Theorie und politisches Handeln*, Nova Mediaevalia: Quellen und Studien zum europäischen Mittelalter, Band 6 (Göttingen, forthcoming); certain aspects were previously touched upon in my "The Philosopher as Political Actor—Marsilius of Padua at the Court of Ludwig the Bavarian: The Sources Revisited," in *The World of Marsilius of Padua*, ed. Gerson Moreno-Riaño (Turnhout, 2006), pp. 29–46.

STUDIES IN PADUA AND PARIS

The oldest written testimonies mentioning Marsilius are two charters issued by the University of Paris, both recording resolutions passed at an assembly held on 12 March 1313. The charters name Master Marsilius of Padua as the rector of the university and the man who had convened this assembly. The first resolution regulated the use of the university seal; the second laid down a new procedure for electing the rector.⁴ The tenure of the rectorship lasted three months and Marsilius' term had begun shortly before Christmas in 1312. Thus, the assembly he convened in March, documented by the two charters, marks the end of his period of office.⁵ The significance of the office of rector, however, usually held by young Masters of the *Artes liberales* who were at the same time students in one of the higher faculties, is not to be overestimated.⁶

Regarding the details of Marsilius' preceding student career, we must rely largely on conjecture. When Marsilius received his Master's

⁴ Heinrich Denifle and Émile Chatelain, eds, *Chartularium universitatis Parisiensis sub auspiciis consilii generalis facultatum Parisiensium: Ex diversis bibliothecis tabularisque collegit cum authenticis chartis contulit, notisque illustravit*, vol. 2, 1: 1286–1350 (Paris, 1891), no. 698, p. 158: "Honestati nostre ac tranquillitati totius studii diligentius attendentes, nos omnes et singuli magistri quatuor facultatum Parisiensis Universitatis ad congregationem generalem vocati per magistrum Marcilium de Padua, tunc nostre Universitatis rectorem"; Denifle/Chatelain, *Chartularium*, no. 699, pp. 158–59, here p. 158: "Querentes que ad pacem sunt, nos omnes et singuli magistri quatuor facultatum Parisiensis Universitatis ad congregationem generalem vocati per magistrum Mersilium [sic] de Padua, tunc nostre Universitatis rectorem."

⁵ The four terms of office of the rector were decreed by the cardinal-legate Simon on 27 August 1266, Denifle/Chatelain, *Chartularium*, vol. 1, no. 409, pp. 449–58, here p. 455; he repeated the order in another decree issued 1 October 1279, Denifle/Chatelain, *Chartularium*, vol. 1, no. 492, pp. 576–77, here p. 576. Documents confirm that Marsilius' predecessor to the rectorship, Emmerich of Denmark, was still in office on 13 September 1312, Denifle/Chatelain, *Chartularium*, vol. 2/1, no. 697, p. 157; from 6 May 1313 the documents establish Nicolas of Vienne as rector of the University of Paris, Denifle/Chatelain, *Chartularium*, vol. 2/1, no. 703, pp. 161–66, here p. 162. See Georges de Lagarde, *La naissance de l'esprit laïque au déclin du moyen âge*, vol. 2: *Marsile de Padoue, ou le premier théoricien de l'État laïque*, 2nd ed. (Paris, 1948), p. 17.

⁶ Regarding the office of rector at the University of Paris, see Gordon Leff, *Paris and Oxford Universities in the Thirteenth and Fourteenth Centuries* (New York, 1968), pp. 60–66, regarding the three-month term, p. 65; Aleksander Gieysztor, "Management and Resources," in *A History of the University in Europe*, ed. Walter Rüegg, vol. 1: *Universities in the Middle Ages*, ed. Hilde de Ridder-Symoens (Cambridge, 1992), pp. 108–43, here pp. 119–25; and Jacques Verger, "Patterns," in *Universities in the Middle Ages*, ed. de Ridder-Symoens, pp. 35–74, here p. 51.

degree is not known. Whether he received it in Paris⁷ or at another university, such as in his hometown of Padua, is a matter of dispute. It is generally assumed that Marsilius began his studies in Padua.⁸ The fact that his name does not appear in any of the extant university records could be ascribed to the circumstance that the records of this period are incomplete.⁹

The term of Marsilius' rectorship might also help determine his date of birth. Dolcini recently attempted to at least narrow it down further. The statutes of the Sorbonne prescribed that the rector be *mature*. Dolcini interpreted this to mean the age of full majority, which according to Roman law was 25 years.¹⁰ This would mean that Marsilius was born no later than 1287.¹¹

Sometime between the end of his term as rector in 1313 and the year 1315, Marsilius must have left Paris and returned to his hometown of Padua, since he appears as a witness in a charter dated 24 May 1315. In this document, the Paduan medical doctor and scholar Peter of Abano (1250–1315)¹² makes a declaration of faith on the occasion of recording his last will and testament. The charter also discloses that Marsilius lived near the church Santa Lucia,¹³ which was located near the cathedral.¹⁴

⁷ As Courtenay recently claimed, reopening the debate, in "University Masters," pp. 209–10.

⁸ For example: Riezler, *Widersacher*, p. 30; and Alan Gewirth, *Marsilius of Padua and Medieval Political Philosophy* (New York, 1951), p. 20.

⁹ Gewirth, *Marsilius of Padua*, p. 20, note 2.

¹⁰ Dolcini, *Introduzione*, p. 8; on the rector's minimum age of 25, see also Gieysztor, "Management," p. 120.

¹¹ Brampton, "Marsiglio of Padua," p. 501: 1278; Manfred Weitlauff, "Marsilius von Padua (Marsiglio dei Mainardini), Staatsphilosoph," in *Neue Deutsche Biographie, Historische Kommission bei der Bayerischen Akademie der Wissenschaften*, vol. 16 (Berlin, 1990), pp. 261–66, here p. 261; Gewirth, *Marsilius of Padua*, p. 20: between 1275 and 1280; Jürgen Miethke, "Marsilius von Padua," in *Lexikon des Mittelalters*, ed. Robert-Henri Bautier and Robert Auty, vol. 6 (Munich, 1993), cols 332–34, here col. 332; Miethke, *De potestate*, p. 207: around 1290.

¹² For a summary of his biography, see Loris Sturlese, "Petrus von Abano," in *Lexikon des Mittelalters*, ed. Bautier and Auty, vol. 6, cols 1959–60.

¹³ Tiziana Pesenti, "Per la tradizione del testamento di Pietro d'Abano," *Medioevo* 6 (1980), 533–42, transcription pp. 538–42, here p. 542: "...magistro Marsilio condam domini Bomathei de contrata Sancte Lucie de Padua"; previously published by Pincin, *Marsilio*, Appendix no. 2, A (testament), pp. 245–48 and B (declaration of faith), pp. 248–49. Cf. Lagarde, *Marsile de Padoue*, pp. 20–21; and Dolcini, *Introduzione*, p. 12.

¹⁴ Dolcini, *Introduzione*, p. 7.

On 14 October 1316, Marsilius received, along with many other applicants on this day, a letter of provision from the newly elected Pope John XXII that made him canon in the diocese of Padua with expectation of prebend.¹⁵ Due to the nature of this source, based upon an original petition from Marsilius, we may also assume that it is the most accurate record of his full name: Marsilius Mainardini. Only a few of the numerous candidates actually received a projected prebend. The majority of these were in fact awarded by papal commission, not through a local collator such as the bishop.¹⁶ Papal stipends were the customary means of providing financial support to university teachers. It is unusual, therefore, that his letter of appointment makes no mention of Marsilius holding a teaching position at the University of Paris. Neither is there any reference to his academic degree, nor to the University itself,¹⁷ nor does the *arenga* use the proper formula for a graduate petitioner.¹⁸ Marsilius' name is also conspicuously missing from the *rotulus* dated 13 November 1316, handed in no more than a month later, and signed by most of the Paris Masters. This collective petition proved to be quite successful for most of those who signed it.¹⁹ Marsilius' friend and later companion, John of Jandun, for example,

¹⁵ For an excerpt, see Antoine Thomas, "Extraits des archives du Vatican: Pour servir à l'histoire littéraire du moyen-âge," *Mélanges d'archéologie et d'histoire* 2 (1882), 113–35 and 435–60, here p. 448: "Dilecto filio Marsilio, nato Bonmathei de Maynardino de Padua, canonico Paduano. Probitatis tue merita, super quibus laudabile tibi testimonium perhibetur, exposcunt ut ad personam tuam apostolice liberalitatis dexteram extendamus. Volentes itaque, premissorum consideratione et obtentu dilectorum filiorum nostrorum Jacobi, Sancti Georgii ad Velum Aureum, et Francisci, Sancte Marie in Cosmedin diaconorum cardinalium, apostolicam pro te gratiam implorantium in hac parte, personam tuam favore prosequi gratiose, canonicatum ecclesie Paduane cum plenitudine juris canonici apostolica tibi auctoritate conferimus et providemus de illo; prebendam vero... Datum Avinione II idus octobris, anno primo. In eundem modum venerabili fratri..., episcopo Clugiensi, et dilectis filiis..., abbati monasterii Cartatie, Paduane diocesis, ac magistro Guillelmo de Brixia, archidiacono Bononiensi."

¹⁶ Andreas Meyer, *Arme Kleriker auf Pfründensuche: Eine Studie über das in forma pauperum-Register Gregors XII. von 1407 und über päpstliche Anwartschaften im Spätmittelalter* (Cologne, 1990), p. 1 with notes 2 and 5.

¹⁷ Valois, "Jean de Jandun," p. 567, note 2, attributes this to a chancery scribe's oversight.

¹⁸ See Thomas Frenz, *Papsturkunden des Mittelalters und der Neuzeit*, 2nd updated ed. (Stuttgart, 2000), p. 48.

¹⁹ For the most recent discussion, see Courtenay, "University Masters," pp. 213–15; see also *Rotuli Parisiensis*, ed. Courtenay, vol. 1, for a general treatment of this source group.

received a canonry in Senlis as a result.²⁰ Apparently, Marsilius was absent from the University of Paris at this time. Since the text of papal letters of provision usually depended upon information provided by the respective applicant himself, Marsilius seems to have deliberately withheld these details. Thus, it seems possible that Marsilius never intended to return to any university at this time, be it Paris or elsewhere.²¹ Even though residency was not a prerequisite for such an appointment, we can be reasonably certain that Marsilius was living in Padua at that time and might have been considering taking up permanent residence there, since he specifically applied for a canonry and prebend in the diocese of Padua. Approximately one-and-a-half years later, on 5 April 1318, Marsilius received a reservation for the first benefice falling vacant in the diocese of Padua.²² Since Marsilius sent a second application, it appears that he was not yet in opposition to Pope John XXII, even though John XXII had issued the bull *Si fratrum* on 31 March 1317, with which he sought to enforce his claim to power in northern Italy against the emperor.²³ Soon after, however, Marsilius began to support the Ghibelline cause.

The latest possible date for Marsilius siding with the Ghibelline party is documented in two papal letters. On 29 April 1319, John XXII wrote to the crown prince of France, Charles Count de la Marche, later King Charles IV of France. In these letters, the pope warns the prince that two Ghibelline envoys, one from the Périgieux and one from Italy,

²⁰ John of Jandun signed the petition in the rotulus as Master of the Faculty of Arts and received a papal stipend as of this date, *Rotuli Parisiensis*, ed. Courtenay, vol. 1, p. 34; synopses are printed in Jean XXII, *Lettres communes*, ed. Mollat, vol. 1, no. 1864, p. 177 and in Denifle/Chatelain, *Chartularium*, vol. 2/1, no. 730, p. 186; an excerpt appears in Antoine Thomas, "Extraits des archives du Vatican: Pour servir à l'histoire littéraire du moyen-âge," *Mélanges d'archéologie et d'histoire* 2 (1882), 113–35 and 435–60, here p. 452.

²¹ Courtenay, "University Masters," p. 218, proposes another explanation: he argues that Marsilius considered it more advantageous towards obtaining a prebend to underscore his connections to Padua and his family background rather than to focus on his academic career.

²² Synopsis in Jean XII (1314–1334), *Lettres communes*, ed. Mollat, vol. 2, no. 6849, p. 123: "Marsilio de Maynardino, can. eccl. Paduan. sub. exsp. praeb., gratia exsp. benef. etiamsi dign. existat c. c. vel s. c., ad collat. ep.i Paduan. pertin., in eccl. vel di. Paduan.—I. e. m. ep.o Clugien., et priori s. Sophiae Paduan., ac Guillelmo de Brixia, archid. Bononien."

²³ *Constitutiones et acta publica imperatorum et regum*, vol. 5: 1313–1324, ed. Jakob Schwalm (Monumenta Germaniae Historica Legum Sectio) 4 (Hanover, 1909–13; repr. Hanover, 1981), no. 401, pp. 340–41.

were on their way to offer him command over the Ghibelline League in the campaign against the pope.²⁴ On the same day, Pope John wrote in a letter to Bernard Jordain de l'Isle that he was disconcerted to learn that Bernard had introduced the Prior of Montfaucon and "that Italian called Marsilius" to Charles.²⁵ Marsilius and Hugh Morcelle²⁶ had paid a joint visit to the future French king Charles IV, on behalf of the Ghibelline leaders Cangrande della Scala from Verona and Matthew Visconti from Milan. Emperor Henry VII had appointed Cangrande della Scala and Matthew Visconti as imperial vicars, but Pope John XXII proceeded to excommunicate them on 6 April 1318.²⁷ Several years later, Marsilius speaks of Matthew Visconti, who died in 1322,

²⁴ *Lettres secrètes et curiales du pape Jean XXII (1316–1334) relatives à la France, publiées ou analysées d'après les registres du Vatican par Auguste Coulon et Suzanne Clémencet*, 3 vols (Paris, 1900–72), vol. 1, no. 859, cols 745–46: "Habet quidem rumor implacidus quod pro parte tirannorum partis gebeline Ytalie duo sunt prodicionis filii, quorum unus est natione Petragoricensis et alter Ytalicus, ut tibi capitaneatum partis illius cum multis stipendiis offerant, et ad recipiendum te alliciant et inducant, ad tuam presentiam destinati, super quo attende, fili, prudenter, quesumus, et considera diligenter quid te deceat, quid tibi liceat et quid expediens videatur, et ne facti ignorantia seducaris, tuam volumus magnificenciam non latere quod prefati tiranni cum suis fautoribus, suis demeritis exigentibus, sunt excommunicationis innodati sententia, et eorum terre supposite ecclesiastico interdicto."

²⁵ *Lettres secrètes et curiales du pape Jean XXII (1316–1334) relatives à la France*, ed. Coulon/Clémencet, vol. 1, no. 860, cols 746–47, here col. 747: "Ceterum, fili, nosse te volumus nos, non absque turbatione grandi animi, percepisse quod virum illum nequam priorem Montis Falconi et illum Ytalicum qui dicitur Marcillo, ad presentiam dilecti filii nostri Caroli, clare memorie regis Francie filii, comitis Marchie, ad instantiam tirannorum partis gebeline Ytalie destinasti, ad tractandum quod idem comes capitaneatum partis gebeline Ytalie debeat acceptare, non attendens quod iidem tiranni sunt cum suis fautoribus, suis exigentibus demeritis, excommunicationis innodati sententia, et eorum terre supposite ecclesiastico interdicto, quodque carissimi filii nostri Roberti, regis Sicilie illustris, sunt hostes publici et notorii inimici, nec in consideratione deducto quod procurare talia nichil aliud est quam ipsum comitem, quod absit, nobis et regi predicto adversarium constituere et nos sibi, ipsumque inducere ad persequendum quos ejus progenitores fuerant hactenus persecuti." This passage also appears in the partial edition by Charles W. Previté-Orton, "Marsilius of Padua and the Visconti," *English Historical Review* 44 (1929), 278–79, and was previously printed in full in *Documents pontificaux sur la Gascogne d'après les archives du Vatican, Pontificat de Jean XXII (1316–1334), Textes publiés es annotés pour la société historique de Gascogne par l'abbé Ludwig Guérard*, vol. 1 (Paris, 1896), no. 86, pp. 135–37.

²⁶ On Hugh Morcelle, see Courtenay, "University Masters," pp. 219–20.

²⁷ Wilhelm Preger, *Über die Anfänge des kirchenpolitischen Kampfes unter Ludwig dem Baiern: Mit Auszügen aus Urkunden des vatikanischen Archivs von 1315–1324* (Munich, 1882), no. 41, pp. 93–94.

with high esteem in the *Defensor pacis*.²⁸ The mission of 1319 failed, however.²⁹

Most scholars presume that Marsilius returned to Paris after the failure of this diplomatic mission and that he stayed there without further or extended absences until his departure to King Ludwig the Bavarian's court. Yet it remains unclear whether Marsilius had by then taken up residency in Paris again and been called upon by the Ghibelline party, by letter or by envoy, to establish contact with the king's son from there, or whether Marsilius travelled to Paris from Italy expressly to see Charles, as generally assumed. One problem scholars have tended to overlook is the question of when and why Marsilius, a native son of the Guelph city of Padua, became a prominent advocate of the Ghibelline cause.³⁰ To answer this question, further research will be necessary.

THE *DEFENSOR PACIS*

The *Defensor pacis* was, as Cary Nederman and Dolf Sternberger have pointed out, in effect, "a call to action."³¹ Marsilius repeatedly declares

²⁸ Marsilius of Padua, *Defensor pacis*, II.xxvi.17, ed. Richard Scholz, 2 vols, Monumenta Germaniae Historiae, Fontes iuris Germanici antiqui in usum scholarum separatim editi 7 (Hanover, 1932–33), p. 512, ll. 6–18: "Quorum tamen singularius persecutus est hactenus generosum, nobilem et illustrem virum catholicum, morum honestate ac gravitate inter ceteros Ytalicos singularem, bene recordacionis Matheum Vicecomitem, imperiali auctoritate Mediolanensem vicarium, cum plurima sibi adherencium multitudine fidelium populorum. Hunc enim, quamvis iniquissime, predictus episcopus suis profanis sermonibus et scripturis dampnate vite fuisse ac dampnate memorie fore pronunciat. Verum non ille Matheus, sed ipse per quem scandala veniunt plurima, et qui profert de sue thesauro malicie semper mala, dampnate presencie apud Deum et homines patenter habetur estque amplius ante mortem et post mortem futurus haberi." See Friedrich Bock, *Reichsidee und Nationalstaaten vom Untergang des alten Reiches bis zur Kündigung des deutsch-englischen Bündnisses im Jahre 1341* (Munich, 1943), p. 240.

²⁹ See Gewirth, *Marsilius of Padua*, p. 21.

³⁰ Courtenay, "University Masters," p. 220, assumes that Marsilius joined Cangrande della Scala from Verona, after he attempted to occupy the Guelph city of Padua in 1318. As future ruler of the city, Cangrande would have been in a position to assign the city's prebends. Marsilius did not change political alliances out of disappointment for the delay in receiving a papal stipend, nor out of any aversion to the papal system of awarding such benefices. Rather, Marsilius regarded Cangrande to be the more suitable provider.

³¹ Cary J. Nederman, *Community and Consent: The Secular Political Theory of Marsiglio of Padua's Defensor Pacis* (Lanham, MD, 1995), p. 14. As Dolf Sternberger

in his treatise that it is his express intent for this theoretical work to bring about practical deeds, specifically, the intervention of Ludwig the Bavarian on the basis of the *coactiva potestas principatum*. This becomes particularly clear in the dedication addressed to Ludwig the Bavarian:

...of reverence for the Giver, ardour to make known the truth, fervent love for brothers and country, pity and compassion for the oppressed; to recall the oppressors from the byway of error, and to spur on those who allow these things to happen when they should and can prevent them; and with an especial regard for you, most noble Ludwig, emperor of the Romans, as the minister of God who will give this work the ending it hopes for from outside: in whom as if by some special and ancient right of blood, and not less by your singularly heroic temperament and shining virtue, the desire to extirpate heresies, to support and safeguard the Catholic truth and every other discipline of study, to excise vice and further the study of the virtues, to put an end to quarrels and to spread and nourish peace and tranquility everywhere, is ingrained and confirmed; I have after a period of painstaking and intense examination, committed to writing the sum of the thoughts that follow, judging that they may give some help to your watchful majesty in its care to provide against the aforesaid errors and other contingencies, and for every other public utility.³²

comments pointedly in *Die Stadt und das Reich in der Verfassungslehre des Marsilius von Padua* (Wiesbaden, 1981), pp. 90–91: “Indeed, even more so, he first and foremost wants to call to action. With all his philosophical and theoretical powers of persuasion, with arguments as laborious as they are digressive, he wants to prepare, even initiate deeds himself. Theory should lead directly towards action, should become action. I doubt that the era ever experienced another instance of such urgency, as manifested by Marsilius in the introductory passages and in the so-called dedication.”

³² Marsilius of Padua, *Defensor pacis* I.i.6, ed. Scholz, p. 7, ll. 22–28, l. 16: “...pro-palante veritatis amorem, patrie ac fratrum caritatis fervorem, oppressorum siquidem misericordiam et reservacionem, opprimencium vero ab erroris devio revocationem, eaque permittencium, hiis tamen obviare debencium atque potencium excitationem; in te quoque respiciens singulariter, tamquam Dei ministrum huius operi finem datum, quem extrinsecus optat inesse, inclitissime Ludovice Romanorum imperator, cui sanguinis antiquo, speciali quasi quodam iure, nec minus singulari eroica tua indole ac preclara virtute insitus et firmatus est amor hereses extirpare, catholicam veritatem omnemque aliam studiosam disciplinam extollere atque servare, vicia cedere, studia propagere virtutum, lites extinguere, pacem seu tranquillitatem ubique diffundere ac nutrire: sequencium sentenciarum summas post tempus diligentis et intente perscrutationis scriptire mandavi, ex ipsis arbitrans iuvamentum quoddam evenire posse tue vigili maiestati, prescriptis lapsibus atque contingentibus aliis reliquisque utilitatibus publicis providere curanti” (Marsilius of Padua, *The Defender of the Peace*, trans. Annabel Brett [Cambridge, 2005], p. 8). For the discussion regarding the title of emperor, which Marsilius is only willing to bestow on Ludwig here, see most recently Miethke, *De potestae*, pp. 221–22.

This call to action directed at Ludwig the Bavarian is intensified by another passage cited less frequently, in which Marsilius speaks of a king chosen by God to fight against the pope and the Roman Curia.³³ Marsilius explicitly attributes the words of the Prophet Daniel, about the king who rules over the kingdom that will not be passed on, to Ludwig the Bavarian. The medieval interpretation of Daniel's theory of the empires equated this with the Roman empire.³⁴

Most scholars agree that the treatise is a call to action addressed not exclusively but primarily to Ludwig the Bavarian. They are convinced that, in some cases, Ludwig the Bavarian actually did put Marsilius of Padua's theories into political action. Marsilius' ambitions to realize his theories by his own political action, however, have received less attention. In the spirit of the teachings of Cicero that anyone who does not prevent wrongdoing, though he is able,³⁵ is equally guilty of doing wrong,³⁶ Marsilius draws himself personally into the focus of his reflections.

And so that I, in knowingly transgressing this law, should not be called unjust—at least to myself—it is my purpose to drive off this plague from

³³ Marsilius of Padua, *Defensor pacis* I.xxiv.17, ed. Scholz, p. 465, ll. 26–466, l. 25: “Verum eodem testante propheta, super hanc statuam casurus est lapis sine manibus abscissus de monte, id est rex, quem de hominum universitate per suam gratiam electum suscitabit Deus, illi scilicet conferendo potestatem, et cuius regnum alteri non tradetur; hic inquam rex magis virtute sive gracia trinitatis, quam opere seu potestate manuum hominum huius terribilis et orribilis ac monstruose statue primum conteret atque comminuet testeam partem, pedum videlicet, quibus inconvenienter innititur, falsas scilicet ac iniquas causas, et occasiones calvas verius dixero cum poeta, omnibus populis ac principibus ipsarum reserato sophismate ac humanis demonstracionibus impugnato et scripture sacre veritatibus annullato innotescere faciendo; deinde vero ferrum ipsius, scilicet atrocem et impiam potestatem, arcendo; es autem consequenter, id est maledicendi quam sibi presumpsit in principes et populos auctoritatem, secularium quoque iurisdictionum usurpatarum et proinde causarum et vexacionum tumultum silere ac obmutescere faciet, luxus quoque voluptatum et pompas vanitatum cessare. Demum vero argentum et aurum, id est avariciam et rapinam Romani pontificis et superiorum membrorum curie Romane, compescet; temporalium quoque usum moderamine debito sibi concedet. Sicque pariter secundum prophetam conterentur ferrum, testa, argentum et aurum; omnia scilicet supradicte curie vicia et excessus extinguuntur, quasi redacta in favillam estive aree, que rapta sunt vento. Quod enim tam contra naturam est, diu permanere non potest.”

³⁴ Scholz, *Defensor pacis*, p. 466, note 2, explicitly attributes the text to Ludwig the Bavarian.

³⁵ For the significance of Cicero's political ethics in Marsilius, see Cary J. Nederman, “The Union of Wisdom and Eloquence before the Renaissance: The Ciceronian Orator in Medieval Thought,” *Journal of Medieval History* 18 (1992), 75–95, esp. 90–93.

³⁶ Marsilius of Padua, *Defensor pacis* I.xix.13, ed. Scholz, p. 136, ll. 20–137, l. 6.

my faithful brothers in Christ, firstly by my teaching and then by external action, as much as I may be able. Because I seem to discern, without a doubt, that it has been granted me from on high to know and to be able to expose the sophism upon which this warped opinion (and perhaps also perverted inclination) of certain Roman bishops and their accomplices, now and previously, has so far relied and continues to rely for its support.³⁷

From this momentous, but rarely cited, passage, Sternberger deduces rightly that Marsilius “himself intended to progress from theory to praxis.”³⁸ This aim could not be achieved by discourse alone, i.e., by exposing and theoretically inveighing against injustice, nor by trying to influence political figures like Ludwig the Bavarian who, unlike philosophers, are able to exert their authority as rulers. Marsilius endeavored to be of influence through his own political acts as well.

DEPARTURE TO LUDWIG THE BAVARIAN’S COURT

After completing the *Defensor pacis*, Marsilius, together with John of Jandun, left Paris and set out for Germany to the court of Ludwig the Bavarian. This much is undisputed among historians, while questions concerning the circumstances and motives, as well as the exact moment, of Marsilius’ and John of Jandun’s departure from Paris remain unresolved. The *terminus post quem* for the departure date may be gleaned from the *Defensor pacis*. According to the testimony of four manuscripts, the treatise was completed in the year 1324 on the feast of John the Baptist,³⁹ i.e., on 24 June 1324.⁴⁰ Another manuscript

³⁷ Marsilius of Padua, *Defensor pacis* I.xix.13, ed. Scholz, p. 137, ll. 6–15: “Quod ius ne siquidem scienter transgrediens ipse saltem mihi dicar iniustus, hanc pestem a fratribus Christi fidelibus doctrina primum et qua valero exteriori consequenter opera propulsare propono. Quoniam, ut indubitanter videre videor, desuper mihi datum est nosse sophisma et reserandi potestas, in quo Romanorum episcoporum quorundam hactenus et in presenciarum suorumque complicitum obliqua extimacio et cum hac perversa fortassis affectio, scandalorum iam dictorum parens, hactenus innisa est, et continuo nititur sustentari.”

³⁸ Sternberger, *Stadt*, pp. 107–08, note 5.

³⁹ Marsilius of Padua, *Defensor pacis* III.iii, ed. Scholz, p. 613, ll. 14–16: “Anno trecenteno milleno [*sic*] quarto vigeno / Defensor est iste perfectus festo baptiste. / Tibi laus et gloria, Christe!” According to three manuscripts used in the edition by Scholz; the fourth is mentioned by Miethke, *De potestate*, p. 210, note 634.

⁴⁰ The date given might possibly be interpreted metaphorically. Marsilius, with this reference, might have intended to depict himself as the precursor to Ludwig the Bavarian, just as John the Baptist was the Precursor, who proclaimed the coming of

is less precise, merely citing the year 1324, but naming Paris as the place where the book was composed and completed.⁴¹ Thus we may conclude that, according to Marsilius' own account, he was still in Paris on 24 June 1324. The *terminus ante quem* derives from the papal bull *Quia iuxta doctrinam* issued on 3 April 1327. It is the first document mentioning Marsilius' and John of Jandun's presence at Ludwig's court. It states that the two scholars from Paris were received at Ludwig's court before his meeting with the Ghibelline leaders in Trent, which was held from January to March 1327, immediately prior to Ludwig the Bavarian's Italian campaign.⁴² Therefore, Marsilius and John must have arrived at Ludwig's court in Germany by the end of 1326 at the latest.

Historians for a long time have been virtually unanimous in judging Marsilius' and John of Jandun's departure from Paris as having been a "precipitous flight."⁴³ This thesis has extensive consequences for the appraisal of Marsilius' subsequent political activity. Whether Marsilius had been forced to leave Paris to seek King Ludwig's protection, or whether Marsilius left Paris with the intention of meeting Ludwig of his own accord, is decisive for determining whether or not Marsilius was pursuing his own political agenda from the start.

The flight theory rests on a number of assumptions. First and foremost is the commonly advocated conviction that Marsilius and John of Jandun did not leave Paris until 1326, i.e., not immediately after

Christ. I thank PD Dr. habil. Wolfgang Beßner, Hamburg, for drawing my attention to this point.

⁴¹ Marsilius of Padua, *Defensor pacis* III.iii, ed. Scholz, p. 613, ll. 23–25, according to manuscript X: "Compositus et completus est liber iste Anno domini MCCCXXIII Parisiis in vico Sorbona in domo studentium in sacra theologia ibidem."

⁴² *Constitutiones et acta publica imperatorum et regum*, vol. 6, 1: 1325–1330, ed. Jakob Schwalm, Monumenta Germaniae Historica Legum Sectio 4 (Hanover, 1914–27; repr. Hanover, 1982), no. 274, pp. 185–86.

⁴³ For example Jürgen Miethke, "Marsilius von Padua," (1993), col. 332; initially by Brampton, "Marsiglio of Padua," p. 508: "The flight of the authors to Germany on the completion of their task was hurried and unexpected." Earlier studies, in contrast, had not yet considered the departure as flight: Riezler, *Widersacher*, p. 36; Carl Müller, *Der Kampf Ludwigs des Baiern mit der römischen Curie: Ein Beitrag zur kirchlichen Geschichte des 14. Jahrhunderts*, vol. 1: *Ludwig der Baier und Johann XXII* (Tübingen, 1879–80), pp. 162–63; James Sullivan, "Marsiglio of Padua and William of Ockham," *The American Historical Review* 2 (1896/97), 409–26 and 593–610, here p. 412; Valois, "Jean de Jandun," pp. 588–89; Albert Hauck, *Kirchengeschichte Deutschlands*, vol. 5, 1, 9th ed. (Berlin, 1958), pp. 500–01.

completing the *Defensor pacis*, but two years later.⁴⁴ From this scholars have deduced that they had not originally intended to leave Paris. The only way historians could account for their decision to leave Paris after such a long time was by the sudden emergence of an imminent threat. Scholars thus presumed that the real cause for their departure must have been the “discovery of the authorship” of the *Defensor pacis*. This presupposes that the *Defensor pacis* had been read in Paris, while its author remained unknown.⁴⁵ Finally, the summons to appear before the inquisitor of the bishop of Paris was surmised as being the concrete motive for the two scholars’ departure.⁴⁶

Consulting the *Defensor pacis* helps correct many of these assumptions. Even though none of the extant manuscripts explicitly name the author in the text, his identity may definitely be inferred from the work.⁴⁷ Marsilius wrote the work anonymously, but he did not conceal his identity. He makes frequent use of the first person singular and alludes to his personage in these passages. This is especially manifest when Marsilius refers to himself as a descendant of Antenor,⁴⁸ the

⁴⁴ For example, Haller, “Lebensgeschichte,” pp. 186–88; Gewirth, *Marsilius of Padua*, p. 21. In Pincin’s opinion, the exact time of departure cannot be determined; see his *Marsilio*, p. 149. The general notion that the year of departure was 1326 is due to one chronicle that actually narrates the arrival at Ludwig’s court twice, one time in its paragraph on 1318 and one more time when it is ranged with partly identical phrasing in the paragraph on 1326, “Continuationis chronici Guillelmi de Nangiaci pars altera (1317–1340),” in: *Chronique latine de Guillaume de Nangis de 1133 à 1300 avec les continuations de cette chronique de 1300 à 1368, nouvelle édition revue sur les manuscrits, annotée et publiée pour la Société de l’histoire de France par Hercule Géraud*, vol. 2 (Paris, 1843; repr. New York, 1965), pp. 1–178, here pp. 14–15 (for 1318) and 74–75 (for 1326). See my discussion in “Philosopher,” pp. 35–36 (with translation).

⁴⁵ For example Scholz, *Defensor pacis*, p. lvii: “forced by the discovery of his authorship”; Friedrich Prinz, “Marsilius von Padua,” *Zeitschrift für Bayerische Landesgeschichte* 39 (1976), 39–77, here p. 50. Similarly, Previté-Orton assumed that the discovery of Marsilius’ authorship was imminent; see Marsilius of Padua, *Defensor pacis*, ed. Charles William Previté-Orton (Cambridge, 1928), p. xi, and “Marsilius of Padua,” p. 142.

⁴⁶ Such was the opinion voiced by Jürgen Miethke, “Marsilius von Padua (1275/90–1342/43),” in *Theologische Realenzyklopädie*, ed. Horst Balz, Gerhard Krause, and Gerhard Müller, vol. 22 (Berlin, 1992), pp. 183–90, here p. 184, ll. 18–21; “Marsilius von Padua” (1993), col. 332. Now, however, he takes a different stance in *De potestate*, p. 223, note 681.

⁴⁷ Nederman, *Community and Consent*, p. 11; now also Miethke, *De potestate*, pp. 222 and 223, note 681 (on p. 224).

⁴⁸ Marsilius of Padua, *Defensor pacis* I.i.6, ed. Scholz, p. 7, ll. 16–22: “Premissis itaque Christi, sanctorum atque philosophorum monitis attendens et obsequens Anthenorides ego quidam ex intelligencie rerum harum, si qua mihi gracia credita

mythical founder of Padua. Marsilius chose to refrain from revealing his name, while enabling the reader to ascertain his identity.

The bull *Quia iuxta doctrinam*, issued by Pope John XXII on 3 April 1327 against Ludwig, refers to Marsilius and John of Jandun for the first time as being the authors of a book suspected of being heretical.⁴⁹ Starting with this bull a new spate of papal litigation was launched against Ludwig, after an almost three-year hiatus since 11 July 1324. Ludwig was summoned to Avignon to hear the sentence on the heresy charge, which was based in part on his harboring Marsilius and John of Jandun. In the first passage, which most scholars have tended to overlook, we read with reference to the two scholars:

Even now crime accumulates upon crime, according to information recently brought to the attention of the Holy See in writing and orally by many reliable men, that two worthless men, sons of perdition and pupils of malediction, one of whom lets himself be called Marsilius of Padua and the other John of Jandun, who in the course of many years at the University of Paris averted their ears from the truth towards falsehood. As the result of the issue shows, their studies should have been corrected. Because the authority of a catholic prince keeps watch over this University, and because it is protected by many orthodox theologians and experts in canon law, they did not dare effuse the poison of their insanity there. They hastened to direct their steps instead towards Ludwig...and to offer him the book they had written. Many reputable Catholic men, who have studied this book in many parts, assert that it contains not only many errors, but various heresies as well. [The authors] offered not only to defend but also to teach the contents of their book. With audacious temerity they presumed to do so repeatedly in public and in Ludwig's presence, as public opinion confirms. That this is quite manifest in these parts is also evidenced by the information provided by the aforementioned.⁵⁰

est, spiritu quoque confidentie ministrato desursum, a quo, teste Iacobo, sue canonice primo capitulo: Omne datum optimum et omne donum perfectum, desursum descendens est a patre luminum"; cf. Gregorio Piaia, "'Anthenorides ego quidam': Chiose al prologo del 'Defensor pacis,'" *Il pensiero politico* 27 (1994), 95–104.

⁴⁹ See note 42 above.

⁵⁰ *Constitutiones*, vol. 6, 1, no. 274, §3, p. 185, ll. 38–186, l. 10: "Adhuc cumulans mala malis, sicut dudum ad nostri apostolatus auditum multorum fidedignorum tam litteralis perduxit insinuatō quam verbalis, duos viros nequam perditionis filios et maledictionis alumpnos, quorum unus Marsilium de Padua et alter Iohannem de Ianduno se faciunt nominari, qui in Parisiensi studio annis pluribus a veritate suum avertentes auditum ad fabulas sua duxerant studia, sicut rei probat exitus, convertenda quique dum in eodem studio, cum in eo catholici principis auctoritas vigeat ac studium ipsum orthodoxorum theologorum et canonistarum copia sit munitum, vesanie sue virus effundere non auderent, ad Ludovicum predictum (quem suis demeritis

This bull contains a host of information that previous studies have overlooked, which stands in contrast to general beliefs about Marsilius' departure from Paris. It states quite plainly that Marsilius and John, held to be the joint authors of the *Defensor pacis*, did not promulgate their ideas in Paris. The reason for this was that they would have invariably endangered themselves. The bull also makes no mention of any litigation instigated or proceedings initiated by the Parisian inquisitor. Had there been legal activities of this kind, they would have been cited here and in later bulls. This is not the case. Instead, the bull emphasizes that, after completing their heretical work, they actually "hastened" to go to Ludwig. It is exceedingly difficult to reconcile the wording of this passage with the assumption that Marsilius and John of Jandun spent another two full years in Paris. On the contrary, the bull suggests that they set out for Germany shortly after completion of the *Defensor pacis*. Therefore, the departure from Paris is more likely to have occurred in the year 1324 than in 1326.⁵¹ The bull also states their motive: the addressee of their treatise was not the orthodox French king in Paris, but Ludwig the Bavarian.

exigentibus velut hereticorum fautorem et persecutorem sancte Romane ecclesie ac plurium atrocium aliorum excessuum patratores de fratrum ipsorum consilio privavimus iure, si quod ei ex electione predicta fuerat acquisitum), gressus suos properaverunt dirigere sibi que librum quemdam quem composuerant erroribus profecto non vacuum, set plenum heresibus variis, sicut fidedignorum multorum catholicorum habet assertio, qui librum ipsum examinaverunt in multis articulis, presentarunt, offerentes se paratos contenta in eodem defendere ac docere, quod et facere publice dicto Ludovico presente ausu temerario pluries presumpserunt, sicut habet fama publica et praemissorum insinuatio hoc fore notorium in illis partibus manifestat."

⁵¹ Scholars have occasionally mentioned two other sources, arguing these would back the notion that Marsilius of Padua had no intention to leave Paris, but the sources do not in fact back that argument. One is the transcript of the examination of Francis of Venice, one of Marsilius' former Parisian students; Marsilio da Padova, *Defensor pacis nella traduzione in volgare fiorentino del 1363*, ed. Carlo Pincin (Turin, 1966), Appendix 1, pp. 569–71. See my "Philosopher," pp. 37–38 (with translation). The other source is a rental agreement for a house in Paris reputedly signed by John of Jandun; Palémon Glorieux, *Aux origines de la Sorbonne, 2: Le cartulaire*, Edition critique avec introduction, index et plan dépliant hors-texte (Études de philosophie médiévale, vol. 54) (Paris, 1965), no. 423, pp. 544–47. The contract, however, is actually signed by Nicholas de Vienne and not by John of Jandun, who is only mentioned as having received the first option to rent the house after the death of Nicholas de Vienne. We can hardly infer anything from that. Apart from this document's actual content, it seems hardly reasonable to deduce Marsilius' intentions from any of John of Jandun's former plans, since we have no idea when—and why—John decided to accompany Marsilius to Germany.

Another well-known statement in the papal bull strengthens the thesis of a deliberate departure. The bull, written more than three years after completion of the *Defensor pacis*, names both John and Marsilius as authors of a heretical book. Since Marsilius, however, was the sole author of the *Defensor pacis*,⁵² the mere fact that John of Jandun accompanied him to Ludwig the Bavarian's court led the Curia to presume that they were coauthors.⁵³ This misconception discloses valuable information. It supports the assumption that the *Defensor pacis* did not become publicly known until after Ludwig's court had taken notice of the two philosophers. Had the *Defensor pacis* come to the attention of the Inquisition before their joint arrival at Ludwig's court, then the misconception of John of Jandun's coauthorship would never have arisen. The Curia's invariable reference to both philosophers indicates that it had no knowledge of the *Defensor pacis* prior to their departure from Paris.

MARSILIUS IN TRENT AND MILAN WITH LUDWIG THE BAVARIAN

Towards the end of 1326, Ludwig the Bavarian set off from Munich for a meeting in Trent, by request of the chiefs of the Ghibellines of northern Italy, who attempted to persuade him to launch a military offensive against Italy. According to the testimony of *Quia iuxta doctrinam*, Marsilius was in Trent together with Ludwig in early 1327. There Marsilius presented his ideas to a wider public, and he did this, the bull states, with the permission of Ludwig.⁵⁴ From this reference to Marsilius' activities in Trent, we may deduce that, from the start, Marsilius belonged to the small retinue accompanying the king from Munich. This, as well as Ludwig's readiness to allow Marsilius to speak in public—especially in Trent before the assembled allies—is an indication of the Italian campaign uniting their individual political goals.

⁵² Scholars have agreed for a long time over the sole authorship of Marsilius, whereas Schmugge, *Johannes von Jandun*, pp. 95–119, reopened the debate, arguing that the similarities he found in John of Jandun's and Marsilius' writings on Aristotle's *Metaphysics* might point to a common authorship of the *Defensor pacis*.

⁵³ Cf. Schmugge, *Johannes von Jandun*, pp. 34–35.

⁵⁴ *Constitutiones*, vol. 6, 1, no. 274, §3, p. 186, ll. 14–15: "...adhuc cum eo [Ludovico] erat Marsilius in Tridento predictus, ipsosque errores manifestissimos et dampnatos publicare permisit." See Godthardt, "Philosopher," pp. 32–39.

The question of whether or not Marsilius' public speeches in Trent inspired Ludwig to go to Rome⁵⁵ must be regarded with some reserve. Marsilius' primary role in Trent would not have been for him, an Italian, to compel the German king to embark on a campaign to Rome. It is much more likely that Marsilius acted as the king's advocate with regard to the Italians, since Marsilius had asserted his influence on Ludwig's plans before the assembly in Trent.

After Ludwig and his allies agreed on a campaign to Rome, they continued to Milan where they would stay until the middle of August. Here Ludwig was crowned with the Iron Crown on Pentecost Sunday, 31 May 1327. The coronation belonged to the archbishop of Milan's dignity and duty. But its present incumbent, Aicardo da Camodeia, sided with the pope and had already left the Ghibelline city some years earlier, since it was put under the interdict. Hence Ludwig chose two Italian bishops, who had been deposed by Pope John XXII, as his coronators. With this coronation, Ludwig underlined not only his claim to rule in northern Italy, in imperial Italy, but also his claim to achieve the imperial dignity.

In the following time, Ludwig used the disordered state of the Milanese archdiocese to implement some ecclesiastical novelties that—as will become increasingly apparent—were related to Marsilius of Padua's ecclesiological and political ideas. With a notable charter of 4 July 1327, Ludwig deposed Aicardo of his bishopric on the grounds of being a rebel against the empire and based on his authority, not yet as an emperor, but as the *verus gubernator et rector* of the Holy Roman Empire.⁵⁶ In that charter, Ludwig also provided for the administration of the diocese. He appointed Giovanni Visconti, a Milanese cleric, to *iudex ordinarius* of the clergy of the diocese, an office novel to Milan. This office included, the charter explains, all jurisdictional rights of the archbishop or general vicar. It is striking that this office is directly dependent upon Ludwig and excluded from any ecclesiastical hierarchy.

A new finding in the archive of the Ospedale Maggiore in Milan by Alberto Cadili has considerably expanded our knowledge of Ludwig's church policy. The document is a sentence of the diocesan tribunal

⁵⁵ Schmutge, *Johannes von Jandun*, p. 35, claims that apart from the Italian Ghibellines it was "primarily Marsilius" who urged Ludwig to defy the pope and go to Rome to claim the imperial crown without him.

⁵⁶ *Constitutiones*, vol. 6, 1, no. 312, pp. 222–24, here p. 223, ll. 6–10.

of 30 January 1329.⁵⁷ The process goes back to the year 1327, when three laymen sued the master of the Ospedale Nuovo. They filed the suit with Bonolo de Raude, who was judge and vicar “venerabilis viri domini magistri Marsilii de Padua, iudicis clericorum et administratoris archiepiscopatus Mediolani in temporalibus pro regia maiestate.”⁵⁸ Marsilius, as Giovanni Visconti and also one Giacomo Visconti before him, had received the highest ecclesiastical jurisdiction in the archdiocese of Milan. But unlike his predecessor, his authority had been expanded to *administrator archiepiscopatus Mediolani in temporalibus*. Since a charter of appointment, such as we have for Giovanni Visconti with Ludwig’s diploma of 4 July 1327, has not come down to us, we do not know the specific assignments and powers of Marsilius’ office. But at least Marsilius possessed the power of disposition for all temporal goods of the archdiocese. We have no knowledge about who was made responsible for the liturgy and sacraments, who administered the bishopric spiritually. But it seems that Marsilius was the official who actually governed the archdiocese of Milan. And as before with Giovanni Visconti, Marsilius’ office and powers entirely depended on the Roman ruler’s authority, which in his case was also reflected in the *addendum* to his official title: *pro regia maiestate*.

Marsilius stayed in Milan for quite a long time after Ludwig and his army had left. In the explicit of an astronomical table, we read that it had been produced by one Master John in Paris in the year 1321 and presented to Master Simon de Moronis by Master Marsilius of Padua in Milan on 17 November 1327.⁵⁹ This source therefore confirms that

⁵⁷ Archivio dell’Ospedale Maggiore di Milano, Aggregazione, Ospedale Novo, cart. 7, liti (30 January 1329); see Alberto Cadili, “Marsilio da Padova: Amministratore della chiesa Ambrosiana,” *Pensiero Politico Medievale* 3–4 (2005–06), 193–225, here p. 201 with note 36.

⁵⁸ Cadili, “Marsilio da Padova,” p. 201.

⁵⁹ Bologna, Biblioteca Universitaria, MS Lat. 1369 (2614), fols. 1–8v, here Explicit: “Explicit canon super tabula magistri Iohannis acta Parisius anno Christi 1321 et comunicata Mediolan. per magistrum Marxilium de Padua magistro Symoni de Moronis 1327 die 17 novembris deinde comunicato fratri Augustino 1337 die 17 novembris deinde comunicato de este 1343 die 27 martii deinde comunicato mihi Bonio. 1344 die iouis 18 martii,” quoted from Lynn Thorndike, *A History of Magic and Experimental Science*, vols 3 and 4: *Fourteenth and Fifteenth Centuries*, here vol. 3, 4th ed. (New York, 1966), p. 260, note 15. Cf. Gewirth, *Marsilius of Padua*, p. 22, note 17; Pincin, *Marsilio*, p. 158, note 36; Nancy G. Siraisi, *Arts and Sciences at Padua: The Studium of Padua before 1350* (Toronto, 1973), p. 91; Carlo Dolcini, “Marsilio e Ockham: Il diploma imperiale Gloriosus Deus, la memoria politica Quoniam scriptura, il Defensor minor,” in *Crisi di poteri e politologia in crisi: Da Sinibaldo Fieschi*

Marsilius was still residing in Milan a quarter of a year after Ludwig's departure for Rome on 13 August. While it cannot exactly be said when Marsilius left Milan for Rome, he certainly reached Rome in the beginning of 1328. Marsilius' rule over the diocese of Milan, later—as we saw—executed by his vicars, apparently ended on 10 February 1329 when Giovanni Visconti again entered the city.⁶⁰ As a later document states, Giovanni Visconti had been appointed not only cardinal deacon of the Roman church by the antipope, probably at the end of January in Pisa, but also his legate and *administrator in spiritualibus et temporalibus archiepiscopatus Mediolanensis*.⁶¹ Marsilius never entered the city again, since not long after this Milan sided with Pope John XXII.⁶²

Some additional information about Marsilius' activities in Milan is revealed in the Milanese's later declaration of acquiescence, submitted to the pope by envoys on 2 June 1331. Under the rule of Azzo Visconti, the city of Milan turned against Ludwig upon his return from Rome early in 1329. A subsequent siege by Ludwig, from May until June, remained unsuccessful and could not reverse Milan's move. Since the interdict had been imposed upon Milan when it joined the party of Ludwig, a formal submission was necessary before the city could be readmitted to the Church. In their declaration, the citizens of Milan renounce Ludwig and the antipope and make several attempts to account for their association with the heretic Marsilius of Padua.⁶³

a *Guglielmo d'Ockham* (Bologna, 1988), pp. 291–426, here. 299, note 14. Speculations that this Master John and John of Jandun might be identical were rejected by Siraisi, *Arts*, p. 91.

⁶⁰ Cadili, "Marsilio da Padova," pp. 204–05.

⁶¹ Cadili, "Marsilio da Padova," p. 203 with note 43.

⁶² The Milanese chronicler Galvaneus Flamma narrates that Marsilius had been appointed archbishop of Milan by the antipope, Galvaneus della Flamma, "Manipulus Florum," in *Rerum Italicarum Scriptores*, 11, ed. Ludovico Muratori (Milan, 1727), cap. 366, col. 732B: "Hic [Nicolaus V] dedit in Archiepiscopum Mediolanensem quemdam Marsilium Paduanum, multosque Episopos in aliis Civitatibus fecit." Cadili, "Marsilio da Padova," p. 206, considers this account theoretically possible but absolutely unlikely. Yet he focuses his discussion on the time after the decisions of Pisa of January 1329. If Marsilius was appointed archbishop of Milan by the antipope—an office he in any case never executed—this of course must have been between the antipope's election and January 1329. See my "Philosopher," pp. 43–46 (without knowledge of Cadili's findings).

⁶³ An Italian paraphrase of the entire declaration may be found in Giannina Biscardo, "Le relazioni dei Visconti di Milano con la Chiesa: Giovanni XXII ed Azzone," *Archivio storico Lombardo: Giornale della società storica Lombarda*, 4th series, 46 (1919), 84–229, here pp. 198–204; a short excerpt in Odorico Rinaldi, *Annales ecclesiastici*, ed. Augustin Theiner, vol. 24: 1313–1333 (Bar-le-Duc, 1872), ad a. 1332, §14–16, pp. 494b–496a (with a wrong dating, however, to 1332); cf. Carl Erdmann,

In this statement, the Milanese purge themselves of the suspicion of having adhered to the heresies of Marsilius and declare that they had never adopted as their own the erroneous beliefs of Marsilius or any other heretic.⁶⁴ Galeazzo Visconti had been compelled to let Ludwig, his army, and the heretic Marsilius into the city in the face of their superior strength.⁶⁵ There they had then proceeded to unfold their expansive propaganda:

He [Ludwig] even ordered an abundance of incorrect, false and impious [things] be proclaimed against Your Holiness at different times, along with many other erroneous beliefs by the aforesaid Marsilius and many others, and that slanderous pamphlets (*libelli*) be written, published and posted throughout the city and the diocese.⁶⁶

In Milan, Marsilius is said to have presented his ideas in writing as well, and on Ludwig's instructions. The *libelli* referred to in the bull were probably "pamphlets," i.e., short propaganda texts.⁶⁷ Perhaps Marsilius' tract *De translatio Imperii* was one of these shorter texts composed in Milan. The significant role propaganda played, especially when addressing a broader audience, is quite evident. Only Marsilius is mentioned by name, as one of many authors of this propaganda; John of Jandun is not.⁶⁸ In Trent and in Milan, where the most important decisions on the way to Rome were made, Marsilius was obviously the more prominent of the two.

"Vatikanische Analekten zur Geschichte Ludwigs des Bayern," *Archivalische Zeitschrift* 3, Folge 8 (= 41) (1932), 1–47, here p. 27, no. 62, with notes 60–61. Brief synopses are found in Riezler, *Widersacher*, p. 46, and Valois, "Jean de Jandun," p. 591.

⁶⁴ Biscaro, "Le relazioni," p. 198: "...clero, popolo, e communità hanno sempre in tutti i tempi professata la fede cattolica e creduto in uno sola Chiesa, santa ed apostolica, e non hanno fatto mai propri gli errori di Marsilio da Padova o di altri eretici."

⁶⁵ Biscaro, "Le relazioni," p. 199: "Geleazzo [Visconti], alla morte della padre, ... dubitando fortemente di non potere resistere a colore che ponevano ogni sforzo per giungere alla sua espulsione dal dominio, introdusse a Milano il Baverlo seguito da un grosso esercito di cavalieri e di fanti, e dall'eretico Marsilio."

⁶⁶ Rinaldi, *Annales ecclesiastici*, ed. Theiner, vol. 24, ad a. 1332, §15, p. 495b: "Quinimo multa et mendosa, falsa et nefanda contra sanctitatem vestram, multaque erronea tam per dictum Marsilium quam plures alios diversis temporibus praedicari, et libellos diffamatorios conscribi, divulgari et in publico appendi in civitate et dioecesi praedictis mandavit." Cf. Biscaro, "Le relazioni," p. 200.

⁶⁷ Heinrich Otto considers this source to be evidence for his hypothesis that Marsilius revised the *Defensor pacis* while in Milan, in "Marsilius von Padua und der *Defensor pacis*," *Historisches Jahrbuch der Görres-Gesellschaft* 45 (1925), 189–218, here p. 200.

⁶⁸ Schmutge emphasizes this in view of Marsilius' activities in Trent, in *Johannes von Jandun*, p. 35.

THE CONDEMNATION OF THE *DEFENSOR PACIS*

In the bull *Dudum propter notorios* of 9 April 1327, Pope John XXII excommunicated Marsilius and John of Jandun together with many other clerics who were associated with the excommunicated King Ludwig. Furthermore, Marsilius and John of Jandun were summoned to appear in Avignon within four months time.⁶⁹ Subsequently, Pope John XXII condemned them as heretics in the bull *Licet iuxta doctrinam*, issued on 23 October 1327 and proclaimed five articles of the *Defensor pacis* to be heretical.⁷⁰ All five of these articles pertain either to the relationship of secular to ecclesiastical power or to the hierarchical structure of the Church. Marsilius' statements regarding the pope's insignificance in both the Roman king's election and his imperial coronation, however, are not the target of the sentence. Furthermore, it is noticeable that all the articles listed in the bull explicitly refer to the emperor, while the *Defensor pacis* speaks more generally of the faithful human legislator (*legislator humanus fidelis*), or of the supreme human legislator (*legislator humanus supremus*), or of those rulers who are empowered by their faithful legislators. In fact, the principles condemned in particular in the third and fourth article would come to play a significant role in Ludwig's politics in Rome:

[third] that the Emperor has the right to correct, to punish, to appoint and to depose the pope;

[fourth] that all priests, be they popes, archbishops, or simple priests, are possessed of equal authority and equal jurisdiction, by the institution of Christ. Whatever one possesses beyond another is a concession of the Emperor, who can moreover revoke what he has granted.⁷¹

⁶⁹ *Constitutiones*, vol. 6, 1, no. 277, pp. 192–96.

⁷⁰ Rinaldi, *Annales ecclesiastici*, ed. Theiner, vol. 24, ad a. 1327, §28–35, pp. 322b–329a; Edmond Martène and Ursin Durand, *Thesaurus Novus Anecdotorum*, vol. 2: *Urbani papae IV, epistolae LXIV, Clementis papae IV. epistolae DCCXI, Joannis XII. processus varii in Ludovicum Bavarum & ejus asseclas, Innocentii VI. registrum epistolarum anno MCCCCLXI, aliaque plura de schismate pontificum Avenionensium monumenta* (Paris, 1717; repr. Farnborough, 1968), cols 704–16; Charles Duplessis d'Argentré, *Collectio judiciorum de novis erroribus*, vol. 1: 1100–1542 (Paris, 1728; repr. Brussels, 1963), vol. 1, 1, pp. 304a–311b. A modern edition is still not available.

⁷¹ Rinaldi, *Annales ecclesiastici*, ed. Theiner, vol. 24, ad 1327, §35, p. 328b: "...rursus [3.] quod ad imperatorem spectat corrigere papam et punire, ac instituere et destituere, adhuc [4.] quod omnes sacerdotes sive sit papa, sive archiepiscopus, sive episcopus, sive sacerdos simplex quicumque, sunt aequalis auctoritatis et jurisdictionis ex institutione Christi; sed quod unus habet plus alio, hoc est secundum quod imperator concessit plus vel minus, et sicut concessit, revocare potest." Regarding the third

The condemnation bull itself gives a report on how the Curia had received its information regarding the contents of the *Defensor pacis*:

Some Catholics, however, in defense of the true faith opposed them and openly proclaimed these doctrines to be erroneous, heretical, and contrary to the evangelical and apostolic truth. They urged them to desist from such a reprehensible doctrine. But they were unwilling to consent to their [the Catholic men's] exhortations and continued to proclaim their heresies. Finally these men, along with many prelates and other Catholics, deeming it extremely outrageous and dangerous that such reprehensible doctrines be publically expounded before Catholics, ensured to send us certain articles excerpted from the aforesaid book and to hand over them by themselves in some way. And they even more fervently entreated us to take care of these things and to provide an appropriate remedy for God's Holy Church.⁷²

The Curia's condemnation of the *Defensor pacis*, thus, was based not upon its own familiarity with the text but solely upon information sent to Avignon by men from Ludwig's court. The identity of these men is not known, nor do we know their motives. Presumably they acted not only under obligation to protect the faith but for political reasons as well. The contents of the contested articles were at once suited to warn the pope about Ludwig's further political actions, as well as to provide the pope with further ammunition in the dispute with Ludwig. The "Catholic men" need not have been members of the clergy; they could just as well have been secular enemies of Ludwig. Whether or not they corresponded with the Curia before composing the synopsis of the *Defensor pacis* cannot be ascertained. Their report definitely

article, see Marsilius of Padua, *Defensor pacis* II.xxi.25; *Defensor pacis* II.xxii.11, ed. Scholz, p. 430; and *Defensor pacis* III.ii.41, ed. Scholz, p. 611. Regarding the fourth article, see *Defensor pacis* II.xv.4, ed. Scholz, pp. 328–29; *Defensor pacis* II.xvi.5, ed. Scholz, pp. 340–42; and *Defensor pacis* III.ii.17, ed. Scholz, p. 606. English translation based in part on: L. Salembier, "Marsilius of Padua," *The Catholic Encyclopedia*, vol. IX (New York, 1910) [CD-ROM version, New Advent, Kevin Knight, Pennsauken, NJ, 2007].

⁷² Martène/Durand, *Thesaurus*, vol. 2, cols 704E–705A: "Quibus licet nonnulli Catholici se pro defensione fidei opposcentes, ostendissent aperte quod illa doctrina erat erronea et haeretica, velut contraria evangelicae et apostolicae veritati, et ut a tali doctrina desisterent suasissent eisdem, ipsique eorum nollent acquiescere monitis, sed in publicandis suis erroribus perdurarent: tandem tam praefati quam plures praelati nec non et alii viri catholici tam [per] perniciosas haereses inter catholicos dogmatisari publice indecens et periculosum nimium reputantes, nobis certos articulos excerptos de libro praedicto curaverunt nonnulli mitterre ac per se ipsos aliqui praesentare supplicantes attentius, ut super praemissis curaremus sanctae Dei Ecclesiae de opportuno remedio providere."

does not contain excerpts, as the bull claims and as is required for such proceedings.⁷³ None of the eventually condemned sentences are quoted verbatim from the *Defensor pacis*. Rather, they paraphrase and summarize some ideas of Marsilius' text.

THE IMPERIAL CORONATION OF LUDWIG THE BAVARIAN

Ludwig the Bavarian entered Rome on 7 January 1328 and received a jubilant welcome from the Romans. The decision to conduct an imperial coronation without the pope and without his permission had been made some time ago. John XXII had rejected Ludwig's request for an imperial coronation by the pope, delivered by envoys sent from Milan to Avignon.⁷⁴ Ludwig then had himself crowned in Rome in a ceremony that, though it was held as far as possible within the framework of the traditional coronation order, remains singular in the history of the Roman Empire because of the consecrators and coronators who were chosen to act instead of the pope. The consecration and the unction were performed by three Italian bishops who had been deposed by John XXII.⁷⁵ Giacomo Alberti, the former bishop of Castello, played the leading role since he both performed the unction of Ludwig and celebrated the coronation mass in the pope's stead.⁷⁶ The crown and

⁷³ See Joseph Koch, "Philosophische und theologische Irrtumslisten von 1270–1329: Ein Beitrag zur Entwicklung der theologischen Zensuren," *Bibliothèque Thomiste* 14 (1930), 305–29, esp. 325 with note 2.

⁷⁴ Henry of Herford: *Heinrich von Herford, Liber de rebus memorabilioribus sive Chronicon Henrici de Hervordia*, ed. August Potthast (Göttingen, 1859), p. 245; Jacob Twinger of Königshofen: Jakob Twinger von Königshofen, "Chronik," in *Die Chroniken der oberrheinischen Städte, Straßburg*, ed. Carl Hegel, 2 vols, Die Chroniken der deutschen Städte 8/9 (Leipzig, 1870–71; repr. Göttingen, 1961), vol. 1, cap. 2, pp. 230–910, here p. 469; William of Egmond: *Willelmi capellani in Brederode postea monachi et procuratoris Egmondensis Chronicon*, ed. Cornelis Pijnacker Hordijk (Amsterdam, 1904), p. 189.

⁷⁵ Two bishops are mentioned by name in Giovanni Villani, *Nuova Cronica*, ed. Giuseppe Porta, 3 vols (Parma, 1990–91), vol. 2, lib. 11, cap. 56, pp. 585–86; the third bishop, who has been largely overlooked, in Jean XXII, *Lettres communes*, ed. Mollet, vol. 7, no. 41807, p. 322. Cf. Emilio Cristiani, "Alcune osservazioni sui vescovi intervenuti all'incoronazione romana di Ludovico il Bavaro (17 gennaio 1328)," in *Miscellanea Gilles Gerard Meerseman*, vol. 1 (Padua, 1970), pp. 247–56, here p. 247 and passim.

⁷⁶ *Constitutiones*, vol. 6, 1, no. 872, p. 726, ll. 19–25: "Set inunctus fuit seu verius execratus a Iacobo dudum episcopo Castellano tunc suis demeritis exigentibus deposito, excommunicato et ut hereticorum fautore condemnato. Coronatus autem de facto extitit, cum de iure posset a nemine coronari, cum privatus fuisset omni

the other insignia were put on Ludwig's head and handed over to him by four Roman aristocrats who had been authorized by the citizens of Rome to perform the coronation.⁷⁷ The leading role among these was played by the prefect of the city of Rome, as some contemporary chronicles explicitly state.⁷⁸ That Sciarra Colonna played the leading role here, as most studies claim, however, is merely an interpretation by the fifteenth-century Florentine historian Leonardo Bruni and not based on contemporary sources or any other evidence.⁷⁹

This form of imperial coronation conforms to Marsilius' theory, inasmuch as he explicitly states, in his *De translatione Imperii*, that the person performing the coronation need not necessarily be the Roman bishop, i.e., the pope.⁸⁰ If the pope refuses, Marsilius argues, another

iure, si quod sibi competierat ex electione in discordia celebrata de ipso, a quibusdam Romanis, ad quos non pertinebat imperatoris coronatio, etiamsi esset coronandus de iure. Quod utique ipsi Romani post discessum Bavari de Urbe publice in Urbe et coram nobis per litteras et nuncios sunt confessi."

⁷⁷ Nicolaus Minorita, *Chronica: Documentation on Pope John XXII, Michael of Cesena and the Poverty of Christ with Summaries in English: A Source Book*, ed. Gedeon Gál and David Flood (St Bonaventure, NY, 1996), pp. 178–79: "...die 17 Ianuarii, quae fuit dominica de nuptiis, anno Domini 1328, praefatus princeps, dominus Ludovicus, Romanorum rex, fuit non per papam, sed per quattuor syndicos populi Romani, ad hoc specialiter constitutos, in ecclesia Sancti Petri in imperatorem Romanorum sollemniter corona aurea coronatus et ex tunc imperator vocatus; nam a die suae electionis, usque ad diem qua Romae corona aurea coronatus, non imperatores, sed reges Romanorum in suis litteris et ab omnibus appellantur."

⁷⁸ John of Viktring: Iohannis abbatis Victoriensis, *Liber certarum historiarum*, 2 vols, ed. Fedor Schneider, MGH Scriptores rerum Germanicarum in usum scholarum 36 (Hanover, 1909/10), vol. 2, Rec. D. A2, lib. V, cap. 7, p. 132, ll. 17–23: "Anno Domini MCCCXXVIII supradicto in die sancto epiphaniae a Romanis accepit coronam imperialem, dicentibus hoc bene licere, quia papa non adesset. Coronavit autem eum prefectus Urbis, qui hoc ex iure habere dicitur, ut imperiale diadema pape manibus subministret et exhibeat, dum illud imperatoris capiti superponit." Henry Taube of Selbach: Heinrich Taube von Selbach, *Die Chronik Heinrichs Taube von Selbach mit den von ihm verfassten Biographien Eichstättler Bischöfe*, ed. Harry Breslau, Scriptores rerum Germanicarum, Nova series 1 (Berlin, 1922; repr. Munich, 1980), Reges, Ludovicus IV., p. 41, ll. 9–16: "Non intelligas, quod antipapa predictus ipsum coronaverit a principio, set quidam antiquus Romanus, prefectus Urbis et dominus in Bitervio, dominica, qua cantatur 'Omnis terra.'"

⁷⁹ Leonardo Bruni, *History of the Florentine People*, ed. and trans. James Hankins, vol. 1: Books I–IV; vol. 2: Books V–VIII (Cambridge, MA, 2001–04), vol. 2, lib. V, cap. 137, p. 126.

⁸⁰ Marsilius of Padua, *De translatione imperii*, cap. 12, in Marsilius of Padua, *Oeuvres mineures: Defensor minor. De translatione Imperii*, ed. Collette Jeudy et Jeannine Quillet (Paris, 1979), p. 430, l. 23–p. 432, l. 1: "Et postmodum tempore Gregorii quinti, electionem Imperatoris Romani septem principibus Alamanniae praedictis fuisse concessam, qui usque ad moderna tempora Imperatorem eligunt ad sollemnitatem, non quidem propter necessitatem aliquam, per Romanum episcopum

person may perform the rite. What can be inferred from this short passage is that Marsilius apparently had another bishop in mind. The Roman citizens, therefore, who handed over the insignia to Ludwig at his imperial coronation played an important role that cannot directly be derived from Marsilius, even if the ceremony was dominated by the officiating bishops. One motive might have been the political situation, propelling Ludwig to reciprocate by thus honoring the Roman hosts of the coronation. It is important to note that, according to Marsilius' theory and in Ludwig's own opinion, which is quite evident here, the imperial coronation does not constitute a legal act. The sole legitimate basis for the title of Roman Emperor is the election by the body of electors; the imperial coronation is a mere representation of a right already acquired. But the title of Roman Emperor is formally accepted only after the imperial coronation. Contrary to the theory of the Curia, however, no specific authority invests the imperial title at the imperial coronation. Whether the participation of four lay aristocrats in performing the coronation, in addition to the customary three consecrators, was actually a propaganda move, an allusion to the lawful body of seven electors authorized to elect the Roman emperor, is a question that cannot be resolved.

Whether Marsilius and John of Jandun advised Ludwig in shaping the coronation ceremony in the way he did may also depend on the question of whether they were already present in Rome at that time. One source gives testimony of the arrival of Marsilius and John of Jandun in Rome. It is the papal mandate of 15 April 1328 to the papal legate, Cardinal-Deacon John of St Theodore, ordering him to arrange for Marsilius' and John of Jandun's arrest.⁸¹ It states:

By means of the widely circulating rumor, in the last few days it has come to the attention of the Holy See, that those two good-for-nothing men, Marsilius of Padua and John of Jandun, ... after hearing that Ludwig ... had gone there and inflicted his tyranny upon the city, made their

coronandum." See Landolfo Colonna, *De translatione Imperii*, cap. 10, in *Monarchia Sancti Romani Imperii*, ed. Melchior Goldast, vol. 2 (Frankfurt/Main, 1614; repr. Graz, 1960), pp. 88–95, here p. 95, ll. 24–26: ... "ac postmodum per Gregorium quintum, electionem Imperii Romani septem principibus Alamanniae praedictis fuisse concessam, qui vique ad moderna tempora Regem Romanorum eligunt, per Romanum Pontificem coronandum." The portions where the editions differ are not italicized.

⁸¹ *Constitutiones*, vol. 6, 1, no. 439, p. 363; Rinaldi, ad a. 1328, §10, ed. Theiner, vol. 24, pp. 341a–b.

way to the city where they audaciously and publicly proclaimed their heresies.⁸²

Earlier studies have overlooked the testimony of this source, which states that Marsilius and John of Jandun apparently did not enter Rome together with Ludwig.⁸³ We do not know if Marsilius and John of Jandun were still in Milan when they received the news that Ludwig had entered Rome on 7 January 1328, or whether they had already proceeded to follow Ludwig's army at an earlier date.

The fact that Marsilius and John of Jandun are mentioned in the proceedings brought against the Romans on 31 March 1328 for their participation in the imperial coronation may perhaps suggest that they arrived in Rome on time:

And furthermore, Marsilius of Padua and John of Jandun, these in every way pestiferous, reprobate men sentenced and condemned for heresy, were received in the city of Rome. The aforementioned crowd listened to the nefarious sermons and doctrines of the heretics and, at the peril of their eternal souls, obeyed them, offering them assistance, counsel and favor.⁸⁴

The indictment names the Romans as the addressees of Marsilius' public speeches. It draws no connection between these speeches and the main accusation directed at the Romans, i.e., that they participated

⁸² *Constitutiones*, vol. 6, 1, no. 439, p. 363, ll. 8–18: "Ad nostri apostolatus auditum hiis diebus fama publica divulgante pervenit, quod illi duo nequam homines Marcilius de Padua et Iohannes de Ianduno (hereteci manifesti et per nos dudum de fratrum nostrorum consilio de heresi sententialiter et publice condempnati,) audito quod Ludovicus (olim Bavarie dux et discorditer in regem Romanorum electus, qui suis horrendis excessibus et gravibus culpis exigentibus excommunicatus ac iure, si quod ei ex predicta electione ad regnum Romanum vel imperium forsitan competeabat, necnon ducatu Bavarie ac comitatu palatino Reni et iure quocumque habendi vocem in electione regis Romanorum in imperatorem promovendi iusto iudicio privatus extitit et de heresi sententialiter et publice condempnatus) Urbem intraverat et in ea suam tyrannidem exercebat, ad Urbem ipsam se personaliter conferentes hereses publice predicare presumunt."

⁸³ Only Dolcini, "Marsilio e Ockham," p. 305 with note 39, and *Introduzione*, p. 42, voices doubts that Marsilius had been in Rome for the imperial coronation, but without explicit reference to this particular papal letter. Cadili, "Marsilio da Padova," p. 207 now also discusses the question extensively.

⁸⁴ *Constitutiones*, vol. 6, 1, no. 428, §6, p. 336, ll. 7–13: "Et insuper predicti populus Marcilium de Padua et Iohannem de Ianduno viros utique pestiferos, reprobos et de heresi sententialiter et publice condempnatos, doctrinas hereticas, reprobas et condempnatas dogmatizantes, publice predicantes in Urbe receperunt predicta, hereticorum predictorum predicationes et dogmatizationes nepharias audiendo eisque parendo in suarum animarum periculum eisque dando auxilium, consilium et favorem."

in the imperial coronation of Ludwig. Neither does it explicate in what respect the Romans were obedient to Marsilius and John of Jandun. It is difficult to assess the actual significance of this source with regard to the question of how greatly Marsilius' ideas influenced the course of the imperial coronation. It is striking that this source makes no such claim. This goes for three other bulls decreed on the very same day, which do not even mention Marsilius. However, one important reason for this silence was that the Curia had little knowledge of Marsilius' ideas about the empire. In the papal bull anathematizing the *Defensor pacis* that reflects the information the Curia had at this time, none of the five condemned articles pertain to the empire or the imperial coronation. The Curia at this point was not well enough informed to recognize any correlation between Marsilius' positions and Ludwig's imperial coronation. Regarding correlations between the deposition of the pope and the appointment of a new pope, however, it was quite the opposite, as will be demonstrated further below.

Against this background, the statements made in the proceedings about the Romans' conduct regarding Marsilius gain significance. Even if the Curia was not in a position to grasp fully its true dimensions, we cannot rule out the possibility that the political agitation by Marsilius, which this source describes, was directed toward the Romans' participation in the imperial coronation. This source could therefore substantiate the argument that Marsilius indeed influenced the imperial coronation, in that he was able to enlist the sympathy not only of Ludwig and his allies for his theories but that of the Romans as well. In view of the Curia's limited knowledge of Marsilius' doctrines, it was perhaps impossible for this source's testimony to be any more precise.

VICARIUS IN SPIRITUALIBUS?

In the already mentioned papal mandate John XXII addressed to his cardinal-legate on 15 April, further accusations against Marsilius may be found that have likewise been overlooked by previous studies. After reporting Marsilius' and John of Jandun's arrival in Rome, it further states that it has come to the pope's attention that

the aforesaid Marsilius, to our vexation, did not hesitate—under the pretext of the vicariate (*pretextu vicariatus*), which he asserted had been conferred upon him there by Ludwig—to proceed to persecute the

Roman clergy and their relatives in a most atrocious manner, because they were unwilling to violate the interdict that the city continues to be subjected to, imposed by our authority because of the presence of the aforesaid Ludwig.⁸⁵

This accusation is no longer directed against the two alleged authors of the *Defensor pacis* but explicitly targets Marsilius alone. Yet the exact nature of the position Ludwig bestowed upon Marsilius in Rome remains unclear.⁸⁶ The precise definition of the term *vicariatus* in this context is unresolved. Scholars are unanimous in interpreting this source to mean that Marsilius had been granted an office of some kind. One interpretation predominates: Ludwig bestowed the title of *vicarius in spiritualibus* on Marsilius in Rome. This title appears in many studies⁸⁷ and pertinent encyclopedia articles.⁸⁸ Numerous variations of this title may be found as well. The first historian to assign the title to Marsilius was Gregorovius, the famous historian of medieval Rome, who in 1867 refers to him as “geistlicher Vikar.”⁸⁹ This term is followed by “spiritual vicar of the city,”⁹⁰ “Vikar in geistlichen Dingen,”⁹¹ or “Vikariat in spiritualibus.”⁹² Older studies also claim, more distinctly,

⁸⁵ *Constitutiones*, vol. 6, 1, no. 439, p. 363, ll. 18–22: “...dictusque Marcilius pre-textu vicariatus, quem ibidem sibi per dictum Ludovicum commissum asserit, tam contra clericos, quia nolunt interdictum, cui propter dicti Ludovici presentiam subiacere processuum nostrorum auctoritate Urbs predicta noscitur, violare quam eorum cognatos et affines in nostram offensam procedere inmaniter non veretur.”

⁸⁶ Some of the following repeats what I said in “Philosopher,” pp. 40–42.

⁸⁷ First by Haller, “Lebensgeschichte,” p. 179; followed by Bock, *Reichsidee*, p. 259; Schugge, *Johannes von Jandun*, p. 36; Martin Berg, “Der Italienzug Ludwigs des Bayern: Das Itinerar der Jahre 1327–1330,” *Quellen und Forschungen aus Italienischen Archiven und Bibliotheken* 67 (1987), 142–97, here p. 173; Jürgen Miethke, “Politische Theorien im Mittelalter,” in *Politische Theorien von der Antike bis zur Gegenwart*, ed. Hans-Joachim Lieber (Bonn, 1991), pp. 47–156, here p. 113; Dick E.H. de Boer, “Ludwig the Bavarian and the Scholars,” in *Centres of Learning: Learning and Location in Pre-Modern Europe and the Near East*, ed. Jan Willem Drijvers and Alasdair A. MacDonald (Leiden, 1995), pp. 229–44, here p. 237.

⁸⁸ For example, Miethke, “Marsilius von Padua” (1992), p. 184, and “Marsilius von Padua” (1993), col. 332.

⁸⁹ Ferdinand Gregorovius, *Geschichte der Stadt Rom im Mittelalter: Vom V. bis zum XVI. Jahrhundert*, vol. 6 (Stuttgart, 1867), p. 152.

⁹⁰ Brampton, “Marsiglio of Padua,” p. 511; Gewirth, *Marsilius of Padua*, p. 22.

⁹¹ Roland Pauler, *Die deutschen Könige und Italien im 14. Jahrhundert: Von Heinrich VII. bis Karl IV.* (Darmstadt, 1997), p. 158.

⁹² Anton Chroust, *Die Romfahrt Ludwigs des Bayern: 1327–1329* (Gotha, 1887), p. 133.

that Ludwig had appointed Marsilius as “päpstlicher Vikar für Rom,”⁹³ “päpstlicher Vicar von Rom,”⁹⁴ or, precisely, “Vikar Nikolaus V.”⁹⁵

None of these vicar titles can be found in this source or in any other extant source, however, nor may they, I argue, be deduced from it. It is striking that only a few scholars have actually referred to this source, and even fewer have quoted it.⁹⁶ And significantly, there has been no scholarly discussion of the term *vicariatus* and its possible definitions. How can it be explained, after all, that scholars do refer to Marsilius as “*vicarius in spiritualibus*” or “papal vicar”? Older studies used the edition of this papal mandate printed in the pertinent volume of the *Annales ecclesiastici*, which was compiled by Odorico Rinaldi and published in 1652. Rinaldi’s introductory commentary to the printed text of the source reads: “Marsilius nefariously accepted from Ludwig the Bavarian the office of papal vicar, which the bishop of Viterbo had held, as if he were entitled to the ministry and to administer the sacraments.”⁹⁷ Angelo Tignosi was bishop of Viterbo at the time and held the office of *vicarius in spiritualibus in Urbe* from 1325 to 1334.⁹⁸ Later, individual historians—as it has to be presumed—associated Rinaldi’s mistaken interpretation with the reference to the bishop of Viterbo, and, as a result, referred to Marsilius as *vicarius in spiritualibus*, but without further explication.

This ecclesiastical office was of particular significance during the Avignon Papacy, since its incumbent was commissioned to supervise the spiritual matters of the Roman diocese in the pope’s stead.⁹⁹ As

⁹³ Riezler, *Widersacher*, p. 53.

⁹⁴ Müller, *Kampf*, vol. 1, p. 201.

⁹⁵ Wilhelm Altmann, *Der Römerzug Ludwigs des Baiern: Ein Beitrag zur Geschichte des Kampfes zwischen Papsttum und Kaisertum* (Berlin, 1886), p. 106.

⁹⁶ These are, as far as I have been able to discern: Riezler, *Widersacher*, p. 53, note 2; Müller, *Kampf*, vol. 1, p. 201, note 6; Altmann, *Römerzug*, p. 83, note 4; Chroust, *Romfahrt*, p. 133, note 2; Valois, “Jean de Jandun,” p. 595, note 4; Hauck, *Kirchengeschichte*, vol. 5/1, p. 511, note 3; Brampton, “Marsiglio of Padua,” p. 511, note 1; Pauler, *Könige*, p. 158, note 206.

⁹⁷ Rinaldi, ad a. 1328, §9, ed. Theiner, vol. 24, p. 341a: “...Marsilius à Ludovico Bavaro, quasi ad eum sacrorum cura et administratio spectaret, pontificii vicarii munus, cui praeerat Viterbiensis episcopus, scelere acceperat.”

⁹⁸ Konrad Eubel, “Series Vicariorum Urbis a. 1200–1558,” *Römische Quartalschrift für christliche Altertumskunde und Kirchengeschichte* 8 (1894), 493–99, here p. 496.

⁹⁹ For the office of *Vicarius in spiritualibus in Urbe*, see Paul Hinschius, *Das Kirchenrecht der Katholiken und Protestanten in Deutschland*, vol. 1: *System des katholischen Kirchenrechts mit besonderer Rücksicht auf Deutschland* (Berlin, 1869), pp. 485–91 (including the developments during the modern age); Eubel, “Series Vicariorum Urbis a. 1200–1558,” pp. 493–94; Alain de Boüard, *Le régime politique et les institutions*

the bishop of Rome's official representative, Marsilius would have had to minister to the diocese by celebrating Mass, primarily in San Giovanni in Laterano and San Pietro, and administer sacraments, including priestly ordination and confirmation. Yet neither the papal mandate itself nor any other source indicates that he did so. Rinaldi's interpretation obviously is not based upon evidence from the source itself, so referring to Marsilius as papal or spiritual vicar, as studies from the nineteenth century onwards have done so unanimously, is not justified.

Not only does the lack of evidence refute the assumption that Ludwig appointed Marsilius to the papal office of *vicarius in spiritualibus*; the assumption lacks plausibility as well. Was Marsilius to have acted as the appointed papal vicar of Rome, performing the sacred duties of the Roman bishop who resided in Avignon, until an antipope had been elected? This, as a result, would have made Marsilius the appointed representative of John XXII. If Ludwig had indeed conferred this office on Marsilius, Pope John would certainly have condemned this presumptuous usurpation not only of Angelo Tignosi's rights but of his own as well. The indignation Rinaldi voiced in 1652 would undoubtedly have been expressed in similar terms in one of the many papal bulls. Altmann must have had this in mind when attempting to present a more plausible meaning of Rinaldi's term of "papal vicar." He still considered Marsilius a papal vicar but assigned him to the antipope. But this, of course, is impossible, since the bull predates Nicholas V's election. In conclusion, none of the extant sources provide evidence that Marsilius held the office of papal vicar, neither to John XXII nor to Nicholas V.

Other scholars have already considered alternative interpretations of the term *vicariatus*. Valois, for one, assumed that Marsilius had been invested with the office of a temporal vicar, namely, "vicaire imperial,"¹⁰⁰ as did Battaglia.¹⁰¹ Hauck and Otto also rejected the notion that the office Marsilius held was ecclesiastical in nature and referred to him

de Rome au Moyen Age (1252–1347) (Paris, 1920), pp. 70–73; Willibald M. Plöchl, *Geschichte des Kirchenrechts*, vol. 2: *Das Kirchenrecht der abendländischen Christenheit 1055 bis 1517*, 2nd ed. (Vienna: 1962), pp. 86–87.

¹⁰⁰ Valois, "Jean de Jandun," p. 595: Marsilius was "[i]nvesti du titre de vicaire imperial."

¹⁰¹ Felice Battaglia, *Marsilio da Padova e la filosofia politica del medio evo* (Florence, 1928; repr. Bologna, 1987), p. 191: "vicario imperiale in Roma."

more cautiously but also more vaguely as Ludwig's "Vikar der Stadt."¹⁰² More recent studies by Berg and by Thomas refer to Marsilius by the title "imperial vicar."¹⁰³ None of these authors, however, point to the fact that they actually contradict so many previous studies.

Yet there are arguments against this interpretation as well. First, none of the authors define the office of imperial or temporal vicar in or of Rome. It could correspond to the imperial office that Ludwig, like previous emperors, appointed quite frequently in northern Italy. Never before, however, was an imperial vicar appointed for the papal city of Rome. Even if that actually had been part of a new policy of the emperor, it still remains unclear why Ludwig should have made such an appointment while in residence in Rome. Furthermore, a powerful ally, such as Castruccio Castracani or—the most likely candidate—Sciarra Colonna, would have been more appropriate than Marsilius. Furthermore, the silence of the sources seems to confute an appointment of such far-reaching consequence. Pope John XXII in particular, who by reason of the vacancy of the Roman empire had claimed all imperial jurisdiction—expressly including the appointment of imperial vicars—for the papacy since 1317, would never have ignored Marsilius' appointment in this or any other mandate to follow. Such an appointment would also have infringed upon his own rights as temporal ruler of Rome.

Finally, I want to point to the wording of the source: it is *vicariatus*, not *vicarius*. Considering the already stated arguments, it seems more appropriate, I believe, to correlate *vicariatus* not with an office but rather with a form of representation in the sense of an empowerment, an authorization, or a commission. Then the preceding "*pretextu*" ("under the pretext"), which remains rather enigmatic in the context of the suggested translation "office of a vicar," would also make more sense.

The offense Marsilius was charged with, i.e., forcing the Roman clerics who remained loyal to the pope to violate the papal interdict, is quite in the spirit of the theories Marsilius propounded. This includes

¹⁰² Hauck, *Kirchengeschichte*, vol. 5/1, p. 511; Heinrich Otto, "Zur italienischen Politik Johanns XXII," *Quellen und Forschungen aus italienischen Archiven und Bibliotheken* 14 (1911), 140–265, here p. 168.

¹⁰³ Berg, "Italienzug," p. 170, who elsewhere also speaks of the *vicarius in spiritualibus* (p. 173; see above); Heinz Thomas, *Ludwig der Bayer (1282–1347): Kaiser und Ketzer* (Regensburg, 1993), p. 209.

empowerment by the emperor. In the *Defensor pacis*, Marsilius states that it is the prerogative of the *legislator humanus* or the ruler authorized by this legislator¹⁰⁴—for whom Marsilius acted as deputy—to compel the clergy to perform their duties. Thus the source reveals that this political activity had been legitimated by Marsilius' theory and, furthermore, delivers proof that Marsilius put his own theory into practice. One aspect of the papal letter portrays Marsilius in a way that has received little attention. If it is true that Marsilius persecuted not only the clergy who obeyed the papal interdict but their immediate family and relatives as well, then the impression is evoked of a man making ruthless use of his newly acquired power.

Thus, Marsilius' assignments and powers in Rome might have been somewhat similar to, but were not equal to, those held in Milan. They were not necessarily related to an office, and certainly not to the office of a *vicarius in spiritualibus*.¹⁰⁵ As an additional argument, it is striking that, in Milan, Marsilius held several offices, but none of them was related to spiritual matters—in contrast to Giovanni Visconti when he became Marsilius' successor in 1329. One probable reason was that, as far as we know, Marsilius had never been consecrated as a bishop. But I think it is much more important that this did not match Marsilius' doctrines. Marsilius did not assign the administering of sacraments to the secular rulers or their deputies.

THE DEPOSITION SENTENCE AGAINST POPE JOHN XXII

On 18 April 1328, Emperor Ludwig called the Romans to assemble before the basilica of St Peter, where he proclaimed the deposition of John XXII with his decree *Gloriosus Deus*.¹⁰⁶ Emperor Ludwig decreed the sentence himself, acting in his capacity as emperor without convening a general council, a synod, or any other form of an ecclesiastical assembly. However, the document makes explicit reference to the consent of the people and the clergy of Rome, and their seals appended on the charter give testimony to this, too. John XXII

¹⁰⁴ Marsilius of Padua, *Defensor pacis* II.xvii.8, ed. Scholz, p. 362; II.xvii.11, p. 365.

¹⁰⁵ Cadili, "Marsilio da Padova," pp. 206–08, sticks to the old notion of Marsilius being *vicarius in spiritualibus*.

¹⁰⁶ *Constitutiones*, vol. 6, 1, no. 436, pp. 344–50; see the most comprehensive account of the event in Villani, lib. 11, cap. 70, ed. Porta, vol. 2, p. 602.

was charged with heresy and committing treason against the emperor (*crimen laesae maiestatis*) in many different ways. Scholars have often claimed that Marsilius influenced the way this sentence was worded. Detailed studies have come to the conclusion, however, that Marsilius' influence is not as evident as previously presumed.¹⁰⁷ These studies have focused on the specified charges, however, that are indeed either missing from the *Defensor pacis*, or so commonplace that they cannot be attributed to Marsilius. Marsilius' influence has to be looked for somewhere else. It can be found, in fact, in the chosen procedure and legitimization. The emperor acts, as Marsilius put it in the *Defensor pacis*, as supreme ruler authorized by the *legislator supremus*, namely, his electorate, and to his actions the faithful legislator of the city of Rome and the Roman diocese, namely, the citizens and the faithful people, including the clergy, gave assent.

Pope John XXII's first reaction to the deposition sentence, his sixth process against Ludwig issued as late as 20 April 1329, surprisingly, has received virtually no attention from scholars. The bull, however, stresses the correspondence between the condemned doctrine of Marsilius and the politics of Ludwig like no other extant written source:

Ludwig... did not shy away from allowing Marsilius and John, whom he had accepted at his court in Germany, to stay at his court, even though they had had the audacity to publicly teach the aforesaid and many other heresies and to stubbornly defend these under his protection, and who publicly preached in Rome that the condemned articles were true after the aforesaid condemnation had been proclaimed. Furthermore, the aforesaid heretical and schismatic Ludwig...—misled to the outrageous insanity that revealed his inner beliefs by the evidence of an external act—personally affirming on a designated day at a designated location before the assembled clergy and people of Rome the aforesaid heresy that the emperor was entitled to depose a pope, had the audacity to proclaim a sentence of deposition against us.¹⁰⁸

¹⁰⁷ Dolcini, "Marsilio e Ockham," pp. 319–33; and much earlier already Müller, *Kampf*, vol. 1, pp. 187–90 and 369.

¹⁰⁸ *Constitutiones*, vol. 6, 1, no. 575, §4, p. 478, ll. 7–17: "...Ludovicus... ipsos Marsilium et Iohannem, quos in partibus Alamannie in suam familiaritatem admiserat et sub cuius umbra errores prefatos et multos alios publice dogmatizare presumpserant et pertinaciter defensare ac in Urbe prefata post latam predictam sententiam predicantes publice, predictos dampnatos articulos veros esse, in suam familiaritatem non erubuerat retinere necnon ad inauditam inductus insaniam, ut quod credebat interius, per evidentiam exterioris operis declararet, certa die et loco convocato publice clero dicte Urbis et populo ac presente prefatus Ludovicus hereticus et scismaticus (pluribus innodatus excommunicationum sententiis et omni honore privatus), asserens errorem

Ludwig is accused not only of having unrightfully proclaimed the deposition of a pope but further, by so doing, of having performed a political act tantamount to implementing Marsilius' heresy. Emboldened by Marsilius' doctrine, Ludwig had felt authorized to act. The pope seems to have believed that it was more important to condemn the adoption of the political principle than the actual deposition sentence itself.

Other sources support the notion of Marsilius' influence on Ludwig. The poet and chronicler Albertino Mussato from Padua, a longtime father-like friend of Marsilius, describes the overall influence Marsilius had on Ludwig in some detail, particularly with respect to the legitimating principles of *Gloriosus Deus*. In his *Ludovicus Bavarus*, written not more than a year after the event but without knowledge of the above-mentioned sixth papal process against Ludwig, Mussato introduces Marsilius within the context of the Roman emperor's desire to depose Pope John XXII:

Ludwig, not declining the progress of his fortune, laid these matters before the preeminent members of his entourage, whom he had brought with him from Germany that they might diligently examine and deliberate them. Among them were two Italians who had expended great effort towards the advancement of Ludwig and who had joined his ranks, of whose advice he made the most use. Marsilius Raymundini was a plebeian citizen of Padua and knowledgeable in Philosophy and an eloquent speaker; Ubertino of Casale, a monk from Genoa, was a similarly astute and ingenious man.¹⁰⁹

Like no other coeval author, Mussato provides insight into the great value Ludwig placed on counsel. The prominence he gives to Marsilius and Ubertino of Casale is not merely owing to the fact that they,

predictum, videlicet quod imperatori licebat papam deponere, contra nos depositionis de facto presumpsit sententiam promulgare.⁵

¹⁰⁹ Albertino Mussato, "Ludovicus Bavarus," ed. Johann Friedrich Böhmer, in *Fontes rerum Germanicarum*, vol. 1 (Stuttgart, 1843; repr. Aalen, 1969), pp. 170–89, here p. 175, ll. 22–30: "Ludovicus, fortune eius successum non abnuens, inter primates sui contubernii, quos secum ex Alemania abduxerat, hec exquirenda et consiliis eruminanda diligenter proposuit. In iis Italici duo erant, qui Ludovici productioni operas multas dederant, eiusque lateri sese adiunxerant, quorum consiliis potissimum fruebatur: Marsilius de Raymundinis, civis Paduanus plebeius, philosophie gnarus et ore disertus, et Ubertinus de Casali Ianuensis, monachus, vir similiter astutus et ingeniosus."

like himself, were Italian.¹¹⁰ Mussato uses the attributes *astutus* and *ingenious* to characterize Marsilius and Ubertino, which is ambiguous, however, since the range of meanings encompasses wise to sly and sharp-witted to deceitful. Whether Mussato's ambiguity was intentional is uncertain, though in his later portrayals of these counselors he uses nothing but negative attributes.¹¹¹ It is evident, however, that these two advisers sought and apparently energetically seized the opportunity to support Ludwig with their recommendations. Mussato specifically emphasizes their significance regarding Ludwig's political decisions by stating that Ludwig relied chiefly on the advice given by Marsilius and Ubertino.

Mussato continues:

While the Romans ignited with passionate zeal, their minds became more and more inclined towards establishing reform, especially after the sentence of excommunication by Pope John XXII had been delivered. Accordingly, the aforesaid counselors and moreover authors of the processes [of Ludwig's], Marsilius and Ubertino, with great skill wrote and compiled edicts against his person and deeds, which were then promulgated by the Senate and people of Rome.¹¹²

¹¹⁰ Marsilius is not mentioned together with John of Jandun in this source, as is the rule in the papal letters. Thus Müller, *Kampf*, vol. 1, Excurs 13, p. 339; Chroust, *Romfahrt*, p. 135, note 1; and, most recently, Wolfgang Giese, "Bemerkungen zu Albertino Mussatos Ludovicus Bavarus," *Zeitschrift für Bayerische Landesgeschichte* 60 (1997), 329–40, here pp. 333–34, surmise that this is an error on Mussato's part, who confused Ubertino with John of Jandun. There is no further evidence for this, so that there is no cause to doubt his testimony. Mussato later discusses the content of *Gloriosus Deus* and puts his emphasis on the religious poverty dispute; this seems to point to the Franciscan Ubertino. Moreover, neither the term *monachus* nor *italicus* corresponds to John of Jandun, but both match Ubertino. At the same time, this inherent coherence might not be all that important, since it only means that Mussato is able to provide correct facts about Ubertino, whom he apparently knew personally. Due to the immense significance of the religious poverty dispute, Mussato may have concluded that the Franciscan Spiritual Ubertino had been present. Chroust (see above) disagrees, arguing that Mussato is the only chronicler to report that Ubertino was a member of the expedition to Rome, and also that none of the papal processes ever mention Ubertino. On Ubertino, see Johannes Chrysostomos Huck, *Ubertin von Casale und dessen Ideenkreis: Ein Beitrag zum Zeitalter Dantes* (Freiburg, 1903); Ernst Knoth, *Ubertino von Casale: Ein Beitrag zur Geschichte der Franziskaner an der Wende des 13. und 14. Jahrhunderts* (Marburg: 1903), esp. pp. 157–61; and Gian Luca Potestà, "Marsilio e Ubertino da Casale," in *Medioevo* 6 (1980), 449–66, esp. 449.

¹¹¹ See further below in this section. I have therefore chosen a translation that uses terminology somewhere in between, with respect to the appraisal of the characterized men.

¹¹² Mussato, "Ludovicus Bavarus," ed. Böhmer, p. 175, l. 36–p. 176, l. 3: "Protinus vehementissimis populi Romani caloribus, ignitisque ad has res novas animis, Ioannes XXII papa excommunicationibus propinatis, in personam at actus eius, prout

Mussato mentions not just one sentence or decree but decrees in the plural. Perhaps he also had the imperial laws of 14 and 23 April in mind, which made provisions for the deposition and mandated the pope's residency in Rome, in addition to the deposition sentence of 18 April. Of the various reasons for the deposition given in the sentence, Mussato emphasizes the condemnation of the position the pope had taken during the religious poverty dispute, which is discussed in an excursus (which we will pass over here). Following the excursus, Mussato writes:

This is the reason cited by the advisers to Ludwig and authors of the sentence. Furthermore, the same advisers and authors composed of their own accord a certain separate manuscript on the power of the pope, made public in the churches of Rome, in which they voiced the opinion that John himself had erred multifariously.¹¹³

There can be no doubt that the advisers to whom Mussato refers are, once again, Marsilius and Ubertino. There can also be no doubt that, in Mussato's estimation, the involvement of these two scholars in the political events in Rome was significant. Moreover, it also appears that they acted independently when they wrote and disseminated their writings against the pope in the churches of Rome, though Ludwig apparently at least tolerated their activities. Mussato refers to Ludwig the Bavarian's advisers repeatedly, yet without mentioning their names again. This is also the case when he specifies those arguments which he feels indicate that Ludwig the Bavarian forfeited all rights to the imperial dignity:

Furthermore, following the advice of a few depraved men who had joined him, he reviled and disparaged the pope. Without regard for the prescriptions of ecclesiastical law, under the furious clamor and heated raging of the rabble and the Roman populace, he actually proclaimed the pope's deposition in a heretical and most unchristian decree.¹¹⁴

iam dicti Marsilius et Ubertinus consultores ac etiam processuum dictatores conscribere atque componere multo studio sciverunt, edicta a senatu populoque Romano promulgata sunt."

¹¹³ Mussato, "Ludovicus Bavarus," ed. Böhmer, p. 176, ll. 27–32: "Hanc causam sumpserunt consultores Ludovici predicti et sententie dictatores. Insuper de potentia pape consultores iidem ac dictatores distinctum quoddam in suis optionibus composuere chirographum, secundum quod ipsum Ioannem multifariam errasse censebat, in Romanis basilicis divulgatum." The first sentence appears to have come down to us incompletely.

¹¹⁴ Mussato, "Ludovicus Bavarus," ed. Böhmer, p. 188, ll. 27–32: "Quodque pravis aliquorum sibi adiunctorum consiliis papam Ioannem abhominatus ac detestatus

The same section concludes: "Though the adherents of the imperial party would like to ascribe this more to the aforementioned cronies and depraved counselors rather than to Ludwig himself, this excuse would hardly suffice to vindicate him."¹¹⁵ In this context, the cronies and depraved counselors are surely Marsilius and Ubertino. Once again, their influence on the deposition of Pope John XXII is emphasized. This last passage also reveals the prominence the counselors had within the imperial party: Apparently not everyone approved of the amount of influence Ludwig was willing to grant them. Though we are dealing in part with the topos of the "evil adviser of the obliging monarch" here, it is well known that particularly the deposition of Pope John XXII and the enthronement of the antipope caused disagreement in Ludwig's camp, costing him a great deal of support.

No other source emphasizes Marsilius' role during Ludwig the Bavarian's Rome sojourn in the way Mussato's account does. The source is especially valuable, since it is contemporary to the events themselves and was written independently of the papal processes. Since he died in May 1329, Mussato could have had no knowledge of the proceedings against Ludwig and the antipope of 20 April 1329, another testimony to Marsilius' influence on the pope's deposition. Marsilius' influence on the political events in Rome is only mentioned in conjunction with the pope's deposition. Marsilius is referred to neither in the context of the imperial coronation, an event Mussato evaluates but does not describe, nor in Mussato's account of the election of the antipope.

Scholars seldom discuss the apparent transformation that occurred in Mussato's personal relationship to Marsilius, "originally his boyhood friend, but later his political enemy."¹¹⁶ The decisive cause for Mussato taking a stand against Marsilius apparently was the deposition of the pope, which constituted to the Guelph man from Padua a great injustice and which he criticizes in great detail. However, Mussato did not mention the *Defensor pacis* either in his *Ludovicus Bavarus* or in the letters he wrote to Marsilius. One would at least expect him to

furioso plebis populique Romani clamore accensoque rumore, in illum, sub nullius sacri solemnisque iuris serie, solius facti executione, depositionis hereticeque superstitionis sententiam fulminasset."

¹¹⁵ Mussato, "Ludovicus Bavarus," ed. Böhmer, p. 189, ll. 7–10: "Verum cum per plurimos imperialis factionis hec iam dictis consodalibus pravisque consiliariis, quam ipsi Ludovico ascribi dicerentur, usquequaque tamen ipsa excusatio non levebat."

¹¹⁶ Theodor F.A. Wichert, "Beiträge zur Kritik der Quellen für die Geschichte Kaiser Ludwigs des Baiern," *Forschungen zur Deutschen Geschichte* 16 (1876), 27–82, here p. 72, note 2.

have alluded to it in his letter to Marsilius at the outset of the Roman campaign. So we do not know whether Mussato had knowledge of its content. And he does not call Marsilius a heretic. Whether Mussato was unfamiliar with the charges brought against Marsilius, or whether he ignored them out of consideration, is not clear. The views Marsilius propagated on the rights of the emperor over the pope, made public in the papal bull of excommunication, play no explicit role in Mussato's narration. Mussato apparently never received the information requested from Marsilius, but we may safely assume that Mussato recorded all other information he obtained about Marsilius with great interest.

THE ENTHRONEMENT OF THE ANTIPOPE NICHOLAS V

The enthronement of the new pope represents the peak of Marsilius' influence on imperial politics. Its process occurred in four separate acts: election, investiture, consecration, and coronation.¹¹⁷ The Franciscan monk Peter of Corbara was elected by an assembly presided over by the emperor. The body of electors was comprised of thirteen elected Roman clerics and an unknown number of Roman laymen,¹¹⁸ although it is not clear when the election took place. Then, on 12 May 1328 on the square before St Peter's Basilica, Ludwig convened another assembly, now of all Romans, and installed the elected Nicholas V. Ludwig, ostensibly acting as emperor, handed over the insignia, including the fisherman's ring, and invested the new pope.¹¹⁹ The consecration, the third act, was performed by Bishop Giacomo Alberti of Castello,¹²⁰ who had consecrated and anointed Ludwig in January, both on the same day. Already after his consecration, Nicholas V took up his official duties by appointing cardinals and issuing his first charters. The coronation, finally, did not take place until 22 May 1328. Ludwig performed the coronation himself, though not with a tiara or a

¹¹⁷ See Julius von Pflugk-Harttung, "Die Wahl des letzten kaiserlichen Gegenpapstes (Nikolaus V. 1328)," *Zeitschrift für Kirchengeschichte* 22 (1901), 566–85.

¹¹⁸ In his statement before the consistory in Avignon on 6 September 1330 acknowledging his guilt, Peter of Corbara says: "[Ludovicus] meque ad quorundam principalium Romanorum clericorum et laicorum instantiam ejus sequacium, una cum certis de clero et populo perfidis ejus complicitibus et fautoribus ad hoc secum vocatis, in papam et summum pontificem, immo verius antipapam damnatum et pestiferum elegisset," Martène/Durand, *Thesaurus*, vol. 2, cols 806–16, here col. 811A.

¹¹⁹ Villani, lib. 11, cap. 73, ed. Porta, vol. 2, p. 609.

¹²⁰ Martène/Durand, *Thesaurus*, vol. 2, col. 811D.

crown but with a scarlet biretta, a forceful demonstration of the pope's complete subordination to the emperor and also the divesting of his secular power.¹²¹

The influence of the theories of Marsilius is almost tangible in the constituting acts of the election and in the investiture, and evident as well in the symbolic demonstration at the papal coronation. No other contemporary had ever gone so far in defining the relationship between secular and ecclesiastical power. What is more, the sources also reveal Marsilius' personal participation in the actual events. It was Marsilius together with a Roman aristocrat who established and presided over the body of 13 Roman clerics that was to take part in the election of the new pope. He used this committee not only as the clerical part of the electoral assembly but also as an instrument to subjugate the Roman clergy to his new order and to control it, as we know from official Roman documents and members of this committee.¹²²

Furthermore, another prominent participant in these events provides us with his own testimony. Peter of Corbara confessed his misdeeds before the consistory after he had resigned and had surrendered himself to Pope John XXII in 1330. In his confession of 6 September 1330, he discloses to what a great extent Marsilius' theories had provided the legitimizing foundation for Ludwig's church politics:

¹²¹ Villani, lib. 11, cap. 76, ed. Porta, vol. 2, p. 612.

¹²² Not long after Ludwig's retreat from Rome, the Roman citizens sought reconciliation with the pope. In their statement acknowledging their guilt they declare: "Clerus etiam dicte Urbis per Ioannem dicti Iacobi Sciarrae filium, et Marsilium de Padua hereticum ad eligendum certos clericos Urbis eiusdem pro bono statu, sicut fingebant, ipsius fraudulenter et deceptorie fuit inductus: quos quidem clericos prefati Ioannes et Marsilius procurarunt electioni dicti Petri de Corbario in Antipapam et apostaticum consentire," Theiner, *Codex diplomaticus*, vol. 1, no. 746, p. 571a. Giovanni Colonna was a son of the leader of the Roman Ghibelline party, Sciarra Colonna, who had invited Ludwig to the city. One member of the committee, the priest Martin, declares himself a member of this important committee but denies—for his part—that he elected the antipope: "Domini et domine mulieres scitote, quod ego presbiter fui unus de tredecim electis a clero Urbis pro pacifico statu cleri et ad liberandum clerum Urbis de manu heretici Marsilii dictum clerum imaniter affligentis, non tamen me immiscui electioni heresiarche Petri de Corbaria antipape," *Constitutiones*, vol. 6, 1, no. 738, p. 627, ll. 26–29. Another member, the priest Paul, confesses: "Paulus presbiter de predicta Urbe olim Sancti Laurentii de Arzi et Sancti Nicolai de Monte prope castrum Toffie ruralium ecclesiarum rector Sabinensis dyocesis, mentis nequitia ductus, Ludovico de Bavaria, heretico manifesto et de heresi condemnato, et Petro de Corbaria, heresiarche et scismatico, adherens et favens, fuerit unus de tribus decem qui ad eligendum ipsum Petrum in antipapam nequiter fuerunt electi," Guillaume Mollat, "Miscellanea Avenionensis," *Mélanges d'archéologie et d'histoire* 44 (1927), 1–10, here p. 6, note 4.

In particular I acknowledge that I perceive and believe that the emperor has no right to depose the pope or to institute him. Furthermore I consider this to be heretical, as it was written in your process, most Holy Father, against the heretics Marsilius of Padua and John of Jandun about these and various other false doctrines, which I have studied diligently.¹²³

In saying this, Peter of Corbara confesses that his own investiture by the emperor was executed according to the principles of the theories of Marsilius.

AFTER THE ROME CAMPAIGN

Ludwig and his entourage, including Marsilius, returned to Bavaria at the beginning of 1330. John of Jandun, however, died in August 1328 when he was on his way to Ferrara, of which he had been appointed bishop on 1 May by Emperor Ludwig.¹²⁴ The assessment of Ludwig's Roman campaign remains a matter of controversy. Older studies have agreed in considering it a complete disaster. More recent accounts stress the success he—unpredictably—had. Yet his imperial coronation and title was—of course—not acknowledged by the pope and those in Europe who strongly sided with the Curia. But surprisingly, Ludwig's imperial dignity that denied its 400-year tradition of being linked to the pope also gained recognition in Germany and Europe. Of course, Ludwig's deposition of John XXII was almost entirely without effect outside the German-Roman empire. And the new pope and his hierarchy governed a schismatic church limited to parts of the empire for the short duration of only about one year. The fate of Peter of Corbara seems to add to the impression of a failed campaign. But it cannot be denied that Ludwig's audacious measures had some unpredictable success as well. Like his imperial coronation, but to a much lesser degree and in a shorter time, Ludwig's ecclesiastical policy

¹²³ Martène/Durand, *Thesaurus*, vol. 2, col. 813A–B: "...et specialiter recognosco me tenere et credere quod ad imperatorem non pertinet deponere et nec instituere papam, immo hoc tenere haereticum reputo, prout in processu contra haereticos Marsilium de Padua et Johannem de Janduno, per vos, Beatissime Pater, super hoc et nonnullis aliis erroribus habito, quem diligenter studui, continetur." Since previous studies have referred to Etienne Baluze's incomplete edition of this confession, from which this passage is missing, this remark of the antipope about Marsilius has, to my knowledge, never before been cited.

¹²⁴ *Constitutiones*, 6, 1, no. 444, pp. 366–68.

gained an acceptance that probably had not been foreseen by anyone. It showed—and demonstrated to the pope—that the papal office can be subject to an emperor's prerogative. With this Ludwig defended his own position: Against the excessive claims of the pope, Ludwig made counterclaims that he not only proposed but put into practice. We have no idea whether Ludwig and his counselors believed their project to be successful in all of Europe—it had to be in order to succeed at all. For Ludwig's part, his politics in Rome brought him close to something like a balance of power with the papacy he could not reach by any conventional means.

Soon after returning from Italy, Ludwig began to seek negotiations with Pope John XXII. Due to the new political constellation in Germany in favor of Emperor Ludwig, the Luxemburg king, John of Bohemia, Archbishop Baldwin of Trier, and the Habsburg Duke Otto of Austria petitioned to the pope that Ludwig be readmitted into the Church.¹²⁵ The pope's reply of 31 July 1330 was negative. Among the many offenses Ludwig is accused of, the pope mentions receiving Marsilius to his court, as he had mentioned many times before in his processes. In this letter, however, the pope goes on dramatically stressing the consequences of Ludwig having allowed Marsilius to stay at his court: "He is surrounded by such advisers, by such a council, that we declare: he is misled, he is being governed."¹²⁶ The Curia apparently assesses the advisers' influence on Ludwig—meaning, in this context, Marsilius in particular—as being not merely strong but decisive.

One year later, negotiations towards reconciliation were initiated. They were to extend over three papacies, without success, until Emperor Ludwig's death. Marsilius remained, in varying degrees, the subject of these negotiations. The pope's initial set of demands have been preserved in a document from the imperial chancellery. The document, written in the German language, arguably represents a transcript of a meeting of Ludwig's council in 1331, recording ten papal demands, the emperor's responses to each of them, and also a list of Ludwig's ten counter-demands, something not found during the negotiations of the following years. It seems, though, that these responses and counter-demands of Ludwig's were not actually used for the negotiations that

¹²⁵ *Constitutiones*, vol. 6, 1, nos 761–63, pp. 648–50 from 24 to 26 May 1330.

¹²⁶ *Constitutiones*, vol. 6, 1, no. 814, §3, p. 688, ll. 25–26: "Talibus est stipatus consiliariis, talium consilio, ne dicamus decipitur, gubernatur."

took place in Avignon. The instructions Ludwig then gave his envoys in October 1331 were much more modest.¹²⁷ The transcript apparently must be considered merely a draft of the emperor's answers. However, it reflects the political constellation and visions about one year after the Roman campaign. The content of this document probably was—in some or all points—directly influenced by the Franciscans and Marsilius.¹²⁸ Moreover, it seems quite likely that in this council meeting Marsilius was present in person.¹²⁹ Thus, we have a source for Emperor Ludwig's views within the framework of the negotiations with the pope as well as an apparent glimpse of his attitudes towards Marsilius' politics and visions.

It is the first of the pope's demands that pertains to Marsilius: "The pope demands of the emperor that Master Marsilius and the Barefoot Friars pledge obedience to him; should they not do so of [their own] will, then he will call them to account against their [will]."¹³⁰ John XXII declares dealing with the heretics at Ludwig's court to be a prerequisite for any reconciliation negotiations. First, Ludwig must bring Marsilius and the Franciscans to declare their obedience to the Church, i.e., he must compel them to renounce the doctrines condemned by the Church. Should they refuse, it is Ludwig's duty to punish them as heretics.

Ludwig's response, according to the transcript, reads as follows:

As to the first demand, the Emperor and his entire wise council, priests and laymen, respond that Master Marsilius and the Franciscans shall be

¹²⁷ Pincin, *Marsilio*, Appendix 7, pp. 259–61, instruction of 14 October 1331. See Hilary Seton Offler, "Meinungsverschiedenheiten am Hof Ludwigs des Bayern im Herbst 1331," *Deutsches Archiv für die Erforschung des Mittelalters* 11 (1954/55), 191–206, on the change of Ludwig's politics towards the reconciliation negotiations during the year 1331, which also included a ban on public writings by Marsilius and the Franciscans.

¹²⁸ Bock, *Reichsidee*, p. 324, sees all points influenced by Marsilian and Ghibelline thought. Bock's thesis is denied by Alois Schütz, *Die Prokuratorien und Instruktionen Ludwigs des Bayern für die Kurie (1331–1345): Ein Beitrag zu seinem Absolutionsprozeß*, Münchener Historische Studien, Abteilung Geschichtliche Hilfswissenschaften, vol. 11 (Kallmünz, 1973), p. 267. Offler, "Meinungsverschiedenheiten," p. 196 points particularly to the public discussion of the emigrants' doctrines; see below.

¹²⁹ Pincin, *Marsilio*, p. 179.

¹³⁰ Riezler, *Widersacher*, Aktenstück C, pp. 329–32, here p. 329: "Der bapst eyschet von dem kaiser, daz er maister Marsilien vnd die barfuozzen ze seiner gehorsam twinge; wellen sie des mit willen nicht tuon, daz er sie dann an irm rechten vorlighe [Riezler's reading; the word more likely is *vertighe* instead of *vorlighe*, although I have not seen the manuscript. F.G.]."

together with the Emperor, as well as everyone who has been of assistance to the Emperor with advice or with deeds, or still is. When this has taken place, the Cardinals shall debate internally and externally the matters of Marsilius and the Franciscans. If they are adjudged to be laudable, they shall endure; if they are adjudged unlaudable, however, they shall perish. If they do not renounce, when they are adjudged unlaudable, the Emperor will, at the behest of the Church, do what he rightly has to do.¹³¹

This response to the pope's demands is remarkable in many respects. First, Ludwig refuses to compel Marsilius, the Friars Minor, and other unnamed people to obedience; instead, they should be included in the reconciliation process and be readmitted into the Church together with Ludwig.¹³² Ludwig accepted their aid both in the form of advice and in the form of action. This can perhaps be considered Ludwig's only extant reference to Marsilius' service to the emperor in Milan and Rome. Although Ludwig admits to having enlisted their aid, he declares his continued support by refusing to dissociate himself from them and demanding that the pope should readmit them into the Church as well.

Then the imperial response to the pope's prerequisites to negotiations towards a reconciliation reaches its culmination: The emperor demands that the cardinals officially discuss the doctrines of Marsilius and the Franciscans, although parts thereof have already been condemned as heretical. The pope is not mentioned and is apparently excluded from this. Historians, however, disagree about the details: whether Marsilius and the Franciscans were to appear before the cardinals to present their doctrines in person,¹³³ whether the cardinals were to debate and examine the doctrines among themselves,¹³⁴ or whether the cardinals were merely to order a debate of the controversial doctrines.¹³⁵ The

¹³¹ Riezler, *Widersacher*, Aktenstück C, p. 330: "Ze dem ersten antwrt der kaiser vnd all sein weiser rat, pfaffen vnd layen, daz maister Marsilius vnd die barfuozzen mit dem kaiser besamt sullen sein vnd all di mit rat oder mit der tat dem kaiser beholfen wern vnd sein; so daz beschehen ist, so lazzen di Cardinal innen vnd vzen disputieren meister Marsilius vnd der barfuozzen sachen; werden di loeblich befunden, si besten; werden aber si vnloeblich befunden, si zergen; wolten si nicht ablazzen, wann di sache vnloeblich gevteilt wrde, so wil der kaiser von bot der kirchen wider si tuon, was er ze rechte sol."

¹³² Offler, "Meinungsverschiedenheiten," p. 196 with note 21.

¹³³ Müller, *Kampf*, vol. 2, p. 143, goes the farthest by claiming "that in the presence of the emperor and all other supporters, the case of those literary confederates was to be discussed and debated with the cardinals."

¹³⁴ Riezler, *Widersacher*, p. 91.

¹³⁵ Offler, "Meinungsverschiedenheiten," p. 196.

phrasing, however, suggests both an internal (*innen*), non-public discussion within the consistory, as well as a public one (*uzzen*) commissioned by the College of Cardinals. The consequences of this scenario would have been far-reaching: These proceedings would assign to the cardinals the position of judge over Marsilius' and the Franciscans' doctrines—but over the pope as well, who would then be in error if Marsilius and the Franciscans were vindicated.

The demand for public debate was certainly not raised to serve the cause of truth and vindication alone. Certainly, it was also meant to influence public opinion and disseminate these thoughts, after public expression of these heretical doctrines was prohibited. The debate never took place, though. But perhaps this is evidence for Marsilius'—and for some time also Ludwig's—intention to push Marsilius' doctrines into a political discourse on the European stage. Scholars have believed Marsilius' influence in politics came to an end with the retreat from Rome. But it seems evident that he did not cease to fight for what he had developed in theory. Even after the return from Italy, Marsilius' high hopes did not decline. But in the time after that, Ludwig was neither willing nor able to again give Marsilius the opportunity to put his theory into practice or to serve him in a major political role. Yet Ludwig was not willing to break away from his counselor, either. In the further course of the reconciliation negotiations, Ludwig was repeatedly commanded to dissociate himself from the heretics at his court, but Ludwig never withdrew his protection.

Later in life, Marsilius wrote the *Defensor minor* and several opinions regarding the annulment of the marriage of Margaret Maultasch, Countess of Tyrol. Whether Ludwig used Marsilius' elaboration of the emperor's rights to justify his further steps is not clear, but it seems unlikely. In any case, Emperor Ludwig arranged the marriage between Margaret and his son, Ludwig of Brandenburg. This was Marsilius' last involvement in politics that we know of. The exact date of his death is unknown. Pope Clement VI delivers the *terminus ante quem* for Marsilius' death in a speech held before the consistory on 10 April 1343, in which he complains of the Bavarian's obstinacy in harboring the heretic Marsilius at his court up until his death.¹³⁶

¹³⁶ Hilary Seton Offler, "A Political 'Collatio' of Pope Clement VI, O.S.B.," *Revue Bénédictine* 65 (1955), 126–44 (edition 130–44), here p. 136, ll. 175–77: "Ipse [Ludwig der Bayer] enim Marsilium de Padua et Johannem de Janduno heresiarchas et de heresi condemnatos sustinuit et secum tenuit usque ad mortem eorum."

CHAPTER TWO

MARSILIUS OF PADUA AT PARIS

William J. Courtenay

Paris holds an important place in any biography of Marsilius of Padua. It was his place of residence when writing all or most of the *Defensor pacis*, completed in 1324. It was there that he held a three-month term as rector of the University in 1313, the only office, as far as we know, to which he was ever elected and the earliest recorded mention of him. Paris was also where he came to know John of Jandun and may even have been the first and principal place for his studies under the famous Paduan master, Peter of Abano.

The dating and circumstances of Marsilius' association with Paris, however, have yet to be agreed upon, or even sufficiently explored. When did he first go to Paris, and was that after several years of study in arts and medicine at Padua? Did he remain at Paris, or did he return to Italy and Padua at some point in the 1314–19 period for further study and there engage in anti-papal politics? When and for what reasons did he begin his studies in the faculty of theology, and how far did he progress?¹

¹ The first detailed biography was that of Noël Valois, "Jean de Jandun et Marsile de Padoue: Auteurs du *Defensor Pacis*," in *Histoire littéraire de la France* 33 (1906), 528–623. While most scholars have followed Valois in dating Marsilius' arrival in Paris to 1311, there has been a difference of opinion on whether he remained there or returned to Italy for a time. Christoph Flüeler assumed continuous residence at Paris, "Die Rezeption der 'Politica' des Aristoteles an der Pariser Artistenfakultät im 13. und 14. Jahrhundert," in *Das Publikum politischer Theorie im 14. Jahrhundert*, ed. Jürgen Miethke (Munich, 1992), pp. 127–38, at p. 137: "Marsilius lehrte jedoch von 1312 bis 1326 in Paris an der Artistenfakultät. Auch der 'Defensor pacis' entstand in Paris." Most scholars, however, have placed Marsilius back in Padua for a time between his term as rector and his studies in theology; see, for example, Nancy G. Siraisi, *Arts and Sciences at Padua* (Toronto, 1973), p. 165: "Advised by [Albertino] Mussato, Marsiglio decided at some date shortly before 1311–12 to study in Paris, presumably with the ultimate intention of pursuing a medical career. He was recognized as a master of arts there, but for some reason failed to complete his studies in the Faculty of Medicine. Returning to Padua, he again took up medical studies, possibly under Peter of Abano."

THE BEGINNING OF MARSILIUS' STUDIES AT PARIS

The first issues to be examined are where Marsilius received his training in arts (whether at Padua, Paris, or both) and, consequently, when he first went to Paris. It is certainly possible that Marsilius studied arts and medicine at Padua before going to Paris. Some of his training in both disciplines was received under Peter of Abano, either at Padua, where Abano was teaching from 1306 until shortly before his death in 1316, or earlier at Paris, where Abano taught from around 1290 to 1305.² At present, there is no way to resolve this question. The attraction that Paris offered to a young and talented scholar such as Abano toward the end of the thirteenth century could just as easily have motivated Marsilius to study at Paris with a Paduan master in the opening years of the fourteenth century. Yet the fact that Marsilius, as late as the second decade of the fourteenth century, was still pondering the question of whether he should study law or medicine has led most scholars to favor the thesis that his initial studies in arts and medicine were at Padua and that he went to Paris for the first time in 1311.³

Whether or not Marsilius studied under Abano at Paris or Padua, he must have studied at Paris and taken his arts degree there before 1311. To teach in the faculty of arts at Paris required a Parisian degree in arts,⁴ and election as rector of the University, which in Marsilius'

² Siraisi, *Arts and Sciences at Padua*, pp. 50–51, 58–60, 147–49. The choice of location for Marsilius' study under Abano has influenced the choice of an approximate date of birth for Marsilius. Those inclined to a Parisian setting for Marsilius' initial studies under Abano date his birth to around 1275, while those favoring a Paduan setting date his birth to around 1285. An approximate date of 1280 would be compatible with either hypothesis.

³ The choice between a career in law or medicine is mentioned in Albertino Musato's famous letter-poem to Marsilius when both were at Padua; for the text of Musato's letter, see Johannes Haller, "Zur Lebensgeschichte des Marsilius von Padua," *Zeitschrift für Kirchengeschichte* 48 (1929), 167–97. Although the dating of the poem has been under dispute, both dates (1311 or 1319) fall in the second decade of the fourteenth century. The date of 1311 for Marsilius' arrival in Paris was proposed by Valois, "Jean de Jandun et Marsile de Padoue," p. 565: "Or on vient de voir qu'un 1311 il était encore en Italie, où il se laissait distraire de ses études médicales par toutes sortes de préoccupations belliqueuses ou autres... Il avait pris sans doute ses grades à Padoue: on lui tint compte de son stage dans cette Université." And on p. 568: "Marsile Mainardino n'était probablement jamais venu à Paris avant 1311." Siraisi, *Arts and Sciences at Padua*, p. 165, adopted this version. Haller convincingly showed that the references in the poem to political and military conditions in the region of Padua better accord with a date of 1319.

⁴ Theoretically the *licentia docendi ubique*, which many universities conferred in arts and in their other faculties by the early fourteenth century, meant that one could

case occurred in December 1312, meant not only that he was already a regent master at Paris, but also that he had the support of the other masters of his nation in the faculty. As an Italian, Marsilius belonged to the Bourges province of the French nation, which contained other groups of foreign students and masters from southern and southeastern Europe. To become known and trusted by the majority of masters in the French nation, and become a candidate for the rectorship, required that one had been at Paris for some time and, usually, had served as proctor of one's nation. It also required that one be known outside of one's nation, in order to gain the votes of electors from one or more of the other three nations, since the vote of the majority of electors (two from each nation) was needed. Marsilius could not possibly have arrived at Paris in 1311 with a degree from Padua and been elected rector in 1312.

It is possible, however, that previous study at Padua may have been counted toward fulfillment of degree requirements at Paris, which occasionally was granted to students transferring from Oxford⁵ and which only required the permission of the masters in one's own nation, not of the entire faculty of arts. But unlike election as proctor of one's nation, which might happen within a year of inception as a master of arts, a minimum of two years of regency in arts was needed to become sufficiently known to be electable as rector. This would place Marsilius' inception as master of arts in or before 1310, and his studies at Paris at least a year or two earlier, unless he was returning to Paris around 1310 after having studied and incepted there during the last years of Abano's Parisian teaching.

This last possibility, that Marsilius' first sojourn at Paris occurred around 1300–06, opens an intriguing scenario, since it would have coincided with the crisis between Philip IV and Boniface VIII as well as the composition and initial dissemination of John of Paris' *De potestate regia et papali*. If, however, Marsilius' first experience at

practice one's profession as a teacher in that discipline at any other university. In practice, the faculties at the University of Paris did not permit masters from other universities to belong to the corporations of regent masters at Paris or to teach there as members of the University without a dispensation, which was rarely accorded.

⁵ For example, Thomas de Bray, who had studied and determined in arts at Oxford, was granted "transfer credit" by the masters of the English nation at Paris in 1333; *Auctarium Chartularii Universitatis Parisiensis*, vol. 1, ed. H. Denifle and É. Châtelain (Paris, 1894), col. 17: "Item dominus Thomas de Bray Anglicus reputabatur in nacione pro determinante, ex eo quod determinaverat in Anglia..."

Paris preceded by only a few years his election as rector, then any early studies with Abano at Padua could occupy no more than two or three years, 1306–08/09, with the possibility of a second period of study at Padua in 1314–16 before Abano's death. In either case, Paris in 1309–14 was still very much the world of Philip IV, and a papal curia remained mindful of Philip's victory over Boniface and the political-ecclesiological implications of that victory.

What was the structure of the University of Paris in the first two decades of the fourteenth century and, in particular, what was the social and geographical composition of the faculty of arts? If the names of those who signed the University's appeal to the pope in 1313 for a delay in paying the general financial collection is any indication, the unofficial leadership of the university—as distinct from those elected as rector, proctors, or *nuncii*—was in the hands of persons of wealth and social position: sons of counts and nephews of cardinals.⁶ Most of these were students in arts who, as far as we know, never took a degree or intended to teach. And not being masters of arts, they also did not hold office within the University. Yet they belonged to a class that could link members of the university community to the royal court as well as to princes and prelates outside Paris. In the case of Marsilius, these connections would be important for his pursuit of his extra-university career.

As was noted earlier, Marsilius belonged to the Bourges province of the French nation, as did all Italian students and masters in the faculty of arts. His most immediate group of contacts would have been his fellow Italians, some of noble background, such as the Visconti brothers from Piacenza, or from wealthy patriciate families, such as Robert de Bardis of the Florentine banking family.⁷ There were also poorer Italian students, poorer than Marsilius himself, who came from a Paduan family of moderate resources,⁸ who supported themselves by serving

⁶ See W.J. Courtenay, "Foreign Scholars at Paris in the Early Fourteenth Century: The Crisis of 1313," *History of Universities* 15 (1997–99), 47–74, which includes a new edition of the document.

⁷ The presence of Alberic and Albert Visconti is recorded in the 1313 document; see Courtenay, "Foreign Scholars," p. 60. For Robert de Bardis, who was a close contemporary with Marsilius in theological studies at Paris, see Courtenay, *Parisian Scholars in the Early Fourteenth Century* (Cambridge, 1999), pp. 207–08.

⁸ Marsilius' father, Bonmatteo Mainardini, was a notary. On the family, see Carlo Pincin, *Marsilio* (Turin, 1967), pp. 21–54, 241–44.

their more fortunate compatriots.⁹ There would also be fellow masters in the Bourges province who were French, such as Nicholas Danielis of Vienne, who was elected rector immediately after the rectorship of Marsilius.¹⁰ Among those affiliated with the Bourges province in 1313 who were not masters were Amédée, son of the count of Geneva; Hugues Dauphin, a relative of the count of Clermont; Aymar de Cros, probably from the same noble family as the châtelain of Montréal of the same name; and Pierre de Cros, bishop of Clermont (1303–04). Other Italians whom Marsilius came to know at this point were Nicolaus Ceccano and possibly his older brother, Annibaldus, who were nephews of Cardinal Jacobus Caetani Stefaneschi, who in turn was a nephew of Boniface VIII. The significance of this association with the papal curia by way of the University of Paris will be discussed in a subsequent section.

Outside the group of Italians and those whom Marsilius would have known from the Bourges province of the French nation there was John of Jandun, who belonged to the Reims province of the French nation and whose initial relationship with Marsilius seems to date to this period. Another important logician who belonged to the French nation was Radulphus Brito, who by 1308 had reached the stage of lecturing on the *Sentences* in the faculty of theology.¹¹ And among important masters outside the French nation who were teaching in the faculty of arts in this same period there was Bartholomew of Bruges, who belonged to the Picard nation.¹²

PHILOSOPHICAL WRITINGS

The philosophical writings attributed to Marsilius of Padua (as distinct from his political works) include questions on the first six books of Aristotle's *Metaphysics* and two *sophismata*, each ascribed to Marsilius

⁹ Such was the case with Francesco della Giovanna of Venice, who served Marsilius and his friends at table and who later gave testimony before papal inquisitors on Marsilius' failure to repay loans from Bardi and others; see É. Baluze, *Miscellaneorum liber primus* (Paris, 1678), pp. 314–15.

¹⁰ Courtenay, *Parisian Scholars*, pp. 193–94.

¹¹ W.J. Courtenay, "Radulphus Brito: Towards an Improved Biography," *Cahiers de l'Institut du Moyen Âge Grec et Latin* 76 (2005), 131–58.

¹² Olga Weijers, *Le travail intellectuel à la Faculté des arts de Paris: textes et maîtres (ca. 1200–1500)*, fasc. 1: *Répertoire des noms commençant par A-B*, *Studia Artistarum*, 1 (Turnhout, 1994), pp. 77–81.

in only one manuscript. Marsilian authorship of these works is not without problems, and the authenticity of only one of the two *sophismata* has gone unchallenged.

The first of these works, the *Questiones super Metaphysice libros*, is attributed to Marsilius in Florence, Biblioteca Laurenziana, Fesulano 161, ff. 1r–41v.¹³ The content of the questions closely parallels the text of questions on the first six books of the *Metaphysics* in the commentary attributed to John of Jandun in other manuscripts and in the early printed edition.¹⁴ The text in the Florence manuscript is a defective *reportatio*, as Jeannine Quillet determined, but whether of lectures given by Marsilius of Padua that were later reused by Jandun, or lectures by John of Jandun that Marsilius may have copied or reported, has yet to be finally determined. The latter seems more probable, based on the selective and abbreviated nature of the text in the Florence manuscript. Marsilius and John were regent masters in the faculty of arts at Paris in the second decade of the fourteenth century,

¹³ On the *Questiones super Metaphysice libros*, see C. Piana, "Nuovo contributo allo studio delle correnti dottrinali nell' Università di Bologna nel sec. XIV," *Antoniano* 23 (1948), 221–54, at p. 223; H. Riedlinger, "Note sur des 'Questions sur la Metaphysique' attribuées à Marsile de Padoue," *Bulletin de la Société Internationale pour l'Étude de la Philosophie Médiévale* (subsequently cited as BSPM) 4 (1962), 136–37; Ludwig Schmugge, *Johannes von Jandun, 1285/89–1328: Untersuchungen zur Biographie und Sozialtheorie eines lateinischen Averroisten* (Stuttgart, 1966), pp. 95–119; Charles Lohr, "Medieval Latin Aristotle Commentaries," *Traditio* 27 (1971), 251–351, at p. 334; Jeannine Quillet, "Brèves remarques sur les Questiones super Metaphysice libros I–VI (Codex Fesulano 161, f. 1ra–41va) et leurs relations avec l'Aristotélisme hétérodoxe," in *Die Auseinandersetzungen an der Pariser Universität im XIII. Jahrhundert*, ed. A. Zimmermann, *Miscellanea Mediaevalia* 10 (Berlin, 1976), pp. 361–85; and Roberto Lambertini and Andrea Tabarroni, "Le Quaestiones super Metaphysicam attribuite a Giovanni di Jandun: Osservazioni e problemi," *Medioevo* 10 (1984), 41–104, at p. 45, note 9, for additional historiography on the issue of authorship and significance. In an appendix to her article, Jeannine Quillet, "L'Aristotélisme de Marsile de Padoue et ses rapports avec l'Averroisme," *Medioevo* 5 (1979), 81–142, at pp. 124–42, edited the opening two questions of Marsilius' commentary, and Piero Di Vona edited the first two questions from Book IV in "L'ontologia di Marsilio da Padova nelle Quaestiones I–II super IV Librum Metaphysicae," *Atti dell'Accademia di Scienze Morali e Politiche* 89 (1978), 251–81.

¹⁴ Most of the text is virtually identical with questions in Jandun's commentary, although the quality and arrangement of arguments is poorer. The questions in the Florence manuscript cover only the first six books of Aristotle's work, in fewer questions than appear in Jandun's commentary, and the latter contains questions on all 12 books. The sequence of parallel questions between Fesulano 161 and manuscripts of the commentary attributed to Jandun was worked out initially by Riedlinger, "Note," p. 136, then by Quillet, "Brèves remarques," pp. 363, 370–81, 384–85, and most recently by Lambertini and Tabarroni, "Le Quaestiones super Metaphysicam," at pp. 94–104. The latter two contributions compare passages from the manuscripts attributing the commentary, respectively, to Marsilius and Jandun.

perhaps also a few years earlier, but the sequential order of their inceptions in arts is unknown.¹⁵ The traditional birth dates assigned to each would make Marsilius some ten years older, but the accuracy of that dating is far from certain. Neither the Florence manuscript nor the manuscripts of Jandun's questions on the *Metaphysics* date the work, although Roberto Lambertini has placed the chronological boundaries between 1312 and 1323 on the basis of internal evidence.¹⁶ Whatever role Marsilius played in producing the text recorded in the Florence manuscript, the views expressed in that manuscript and in Jandun's commentary differ substantially from those expressed in the *Defensor pacis* and from positions maintained in one of the two *sophismata*. That observation helped form the basis for the accepted judgment that John of Jandun did not coauthor the *Defensor pacis*, and on similar grounds one can conclude that the text in the Florence manuscript is essentially that of John of Jandun and does not reflect the thought of Marsilius.

The two sophistical questions attributed to Marsilius are a different matter.¹⁷ One appears in a collection of questions by various early

¹⁵ For the biography of John of Jandun, see Stuart MacClintock, *Perversity and Error: Studies on the 'Averroist' John of Jandun* (Bloomington, IN, 1956); Schmutge, *Johannes von Jandun*, pp. 1–44; Charles Lohr, "Medieval Latin Aristotle Commentaries," *Traditio* 26 (1970), 208–15; and Olga Weijers, *Le travail intellectuel à la Faculté des arts de Paris: textes et maîtres (ca. 1200–1500)*, fasc. 5: J (à partir de Johannes D.), *Studia Artistarum* 11 (Turnhout, 2003), pp. 87–104. See also C.J. Ermatinger, "John of Jandun in his Relations with Arts Masters and Theologians," in *Arts libéraux et philosophie au moyen âge: Actes du quatrième congrès international de philosophie médiévale* (Montréal/Paris, 1969), pp. 1173–84. The approximate date of birth proposed by Schmutge (p. 5) for Jandun, "vermutlich zwischen 1285 und 1289," was conjectured on the assumptions that (1) Jandun's *Sophisma de sensu agente*, dated to 1310 in Paris, Bibliothèque nationale du France, lat. 16089, was Jandun's first work and therefore was composed soon after he became master of arts, and that (2) he incepted in arts at the earliest possible age, or soon thereafter. Neither of these assumptions is necessary. Jandun may have been regent master at Paris for several years before he "published" his first question, and what Jandun referred to as his *primum opus* may not be the version of *De sensu agente* that is dated 1310.

¹⁶ Lambertini and Tabarroni, "Le Quaestiones super Metaphysicam," p. 56.

¹⁷ On the two *sophismata*, see *BSPM* 5 (1963), 116; Annaleise Maier, "Die italienischen Averroisten des Codex Vat. Lat. 6768," *Manuscripta* 8 (1964), 68–82, at p. 78; repr. in Maier, *Ausgehendes Mittelalter*, vol. 2 (Rome, 1967), pp. 351–66, at pp. 361–62; and Roberto Lambertini, "The 'Sophismata' attributed to Marsilius of Padua," in *Sophisms in Medieval Logic and Grammar*, Acts of the Ninth European Symposium for Medieval Logic and Semantics, ed. Stephen Read, Nijhoff International Philosophy Series, 48 (Dordrecht/Boston/London, 1993), pp. 86–102. Mention of both *sophismata* is also made in the entry on Marsilius de Padua in the forthcoming catalogue of thirteenth-century *sophismata* by Sten Ebbesen, where the minims in the title of "Caius est universale" is rendered "Canis est universale."

fourteenth-century arts masters, including Parisian masters such as John of Jandun, but also masters connected with Bologna.¹⁸ The question identified as belonging to Marsilius is n.32 (in Etzkorn's list n.30): "Caius est universale. Hoc est sophisma propositum circa quod queritur primo de significato termini concreti accidentalis...", which ends with "Explicit questio disputata per magistrum Marsilium de Padua."¹⁹ The issue under debate in this disputation is the semantic problem of the meaning of concrete accidental terms, such as "white" (*albedo*).²⁰ In a second manuscript copy of this same *sophisma*, where the title is rendered "Genus est universale," the disputation is attributed to Peter of Cologne, an arts master active at Paris in the early fourteenth century. The issue of authorship is further complicated by the fact that opinions opposed by the master who determined this disputation are found in the question "Utrum terminus concretus accidentalis significet primo formam" in the questions on *Metaphysics* in the Florence manuscript attributed to Marsilius, and the author of the latter rejected the solution found in this *sophisma*. Clearly, these two questions cannot be by the same author. If this *sophisma* is the work of Marsilius, then he can only be, at most, the *reportator* of the *Metaphysics* commentary, and on this question Marsilius and John of Jandun would hold significantly different views. If, however, this *sophisma* actually belongs to Peter of Cologne, then it tells us nothing about the authorship of the commentary in the Florence manuscript, or similarities and differences between the thought of Marsilius and John of Jandun.²¹

The second *sophisma*, found only in Mantua, Biblioteca comunale, MS D.III.19 (445), ff. 1vb–3ra: "Sophisma: Omne factum habet principium," is attributed to Marsilius at the end of the question as well as in the index.²² Lambertini, following Maier, accepted the Marsilian

¹⁸ Vatican City, Biblioteca Apostolica Vaticana, Vat. lat. 6768, ff. 101ra–161rb, 163ra–264vb. For a description of the content of the manuscript, see G.J. Etzkorn, *Iter Vaticanum Franciscanum: A Description of Some One Hundred Manuscripts of the Vaticanus Latinus Collection* (Leiden, 1996), pp. 199–209.

¹⁹ Etzkorn, *Iter Vaticanum Franciscanum*, ff. 221vb–223va.

²⁰ For the background to this issue, see Sten Ebbesen, "Concrete Accidental Terms: Late thirteenth-century debates about problems relating to such terms as 'Album,'" in *Meaning and Inference in Medieval Philosophy: Studies in Memory of Jan Pinborg*, ed. Norman Kretzmann (Dordrecht/Boston/London, 1988), pp. 107–61.

²¹ On the differences between the two views and their relation to divergent groups of arts masters at Paris in the late thirteenth and early fourteenth century, see Lambertini, "The 'Sophismata,'" pp. 89–94.

²² Mantua, Bibl. comunale, D.III.19, f. 3ra: "Explicit sophisma universalium [utilissimum?] datum [determinatum?] Parigius [Parisius] a venerabili viro magistro Marsilio paduano."

authorship of this *sophisma* on the grounds of the identification in the manuscript as well as the fact that the *sophisma* is not found in any other manuscript.²³ Lambertini also noted a close correspondence between the position maintained in this *sophisma*, namely, that there are only two types of universals, not five as Porphyry maintained, and the same opinion proposed by John of Jandun in his commentary on Book I of Aristotle's *De anima*, whose authenticity has not been questioned. This does not disprove Marsilius' authorship of the other *sophisma*, since it is not necessary that Marsilius and John of Jandun agree on all issues in logic and semantics. But the fact that the two authors agree on a position that is described in this *sophisma* as a new departure that opens a window on an old problem is worth noting in light of the close association of the two masters in the 1320s. Apart from issues of authorship, it is also important to note that the questions on the *Metaphysics* as well as the two *sophismata* were composed at Paris.

THE ITALIAN ADVENTURE

The date of the rectorship of Marsilius of Padua confirms that he was a regent master in the faculty of arts at Paris in the 1312–13 academic year, and his familiarity with the French reaction to the taxation policy of Philip IV and Louis X in 1314–15 suggests that he was still in Paris in that year, which included the death of Philip IV and the accession of Louis X in November 1314.²⁴ In May 1315, however, Marsilius was in Padua, where he appears as a witness in Peter of Abano's profession of faith.²⁵ Whether this was a brief visit to Padua to be with his former master in a time of need or a return to Padua to continue his studies there is not known. What is clear is that by 1316 he was seeking to improve his financial situation by obtaining an expectation of a

²³ Lambertini, "The '*Sophismata*,'" p. 94: "The uniqueness of the copy does not seem to allow for many doubts about Marsilius' paternity." Unfortunately, that same argument was used to "prove" the Marsilian authorship of the other *sophisma* until another manuscript was discovered with a different attribution.

²⁴ Marsilius of Padua, *The Defender of Peace*, trans. Alan Gewirth (New York, 1956), I.xi.8, p. 43: "And we ourselves have seen that from lack of attention to this voice [of prudence] not the least of kingdoms in modern times almost underwent a revolution, when its ruler wished to impose upon his subjects an unusual and illegal tax."

²⁵ Alan Gewirth, *Marsilius of Padua and Medieval Political Philosophy* (New York, 1951), p. 21, from C. Ronzoni, "Della vita e delle opere di Pietro d'Abano," *Atti della R. Accademia de Lincei*, ser. 3. *Memorie, Classe di Scienze morali, storiche e filologiche* 11 (1877–78), 525–50, at p. 550.

benefice at Padua and that the means he chose to pursue this goal was papal largess, based on personal contacts he had made at Paris.²⁶

Since the death of Clement V in April 1314, the Latin Church had been awaiting the election of a new pope, which did not occur until August 1316. Marsilius, along with hundreds, perhaps thousands, of petitioners, traveled to Avignon in late August or September to supplicate the new pope, John XXII, for a benefice. Of the Paris masters who must have journeyed to Avignon at this time, only two are known to have been successful in obtaining an expectation of a benefice from the pope before the University of Paris, collectively, submitted a list of nominees in late October, which was acted on by the pope in November.²⁷ The two successful Parisian masters were Marsilius of Padua and Reginald of Besançon, both through the sponsorship of two Italian cardinals, Jacobus Stefaneschi and Franciscus Caetani.²⁸

Marsilius' success in gaining an expectation of a canonical prebend in the cathedral chapter at Padua has usually been viewed as the result of a direct solicitation to the two Italian cardinals by Marsilius, and a willingness on the part of the cardinals to reward a distinguished citizen of an important Guelf city. On closer examination, the situation was undoubtedly more complex. Marsilius and Reginald would have needed an introduction in order to gain access to the cardinals. The most obvious route would have been through Nicolaus Ceccano, a fellow Italian, albeit noble, who belonged to the Bourges province of the French nation at the University of Paris, as did Marsilius and Reginald, who was or would soon be a master of arts and who was, most importantly, a nephew of Cardinal Jacobus Stefaneschi.²⁹ Marsilius may even have been one of Nicolaus' teachers. Nicolaus

²⁶ For a fuller treatment of this point, see W.J. Courtenay, "University Masters and Political Power: The Parisian Years of Marsilius of Padua," in *Politische Reflexion in der Welt des späten Mittelalters: Essays in Honour of Jürgen Miethke*, ed. Matthias Kaufhold (Leiden, 2004), pp. 209–23.

²⁷ The results of this collective petition can be found in *Rotuli Parisienses*, vol. I, ed. W.J. Courtenay (Leiden, 2002), pp. 31–38.

²⁸ Marsilius' provision is recorded in Jean XXII, *Lettres communes analysées d'après les registres dits d'Avignon et du Vatican* (henceforth cited as *LC Jean XXII*), ed. Guillaume Mollat et al., 16 vols (Paris, 1904–47), #1482; that of Reginald is found in Jean XXII, *Lettres communes*, #1486.

²⁹ The first papal provision that identifies Nicolaus as master is in February 1317, only four months after Marsilius' provision; see *LC Jean XXII*, #2673. Before October 1316 Nicolaus had obtained canonical prebends at Cuenca in Spain, and Beauvais and Arras in France; see *LC Jean XXII*, #223, 658, 741, 756, 758, 761, 764, 765, 766, 769, 815, 1032, 1033.

would probably have been in Avignon at the time of the papal election, and for Marsilius, who had known him at Paris, he was the most obvious route to an audience with the uncle and the support of that cardinal for a papal grace. Marsilius may also have known Nicolaus' older brother, Annibaldus Ceccano, who was completing his degree in theology at this time and who became provisor of the Sorbonne in 1320 and cardinal in 1327. The Ceccano network included John of Jandun, Marsilius of Padua, and Johann Hake (later bishop of Göttingen), all former students of Peter of Abano, friends of Nicolaus, and subsequently clients of Jacobus Stefaneschi.³⁰

Several circumstances surrounding Marsilius' papal provision are worth noting. Nicolaus was the principal executor on the provisions to Paris masters in November 1316 that resulted from the University *rotulus*.³¹ It is likely that the idea of a collective petition to the pope from masters at the University of Paris—the first collective papal petition from any group—was a result of a papal initiative in which Nicolaus and the two Caetani cardinals, Jacobus Stefaneschi and Franciscus Caetani, formed the nucleus.³² The cardinals were both nephews of Boniface VIII and no doubt remembered the papal humiliation at Anagni and Philip the Fair's policy to make himself the sole protector of the rights and privileges of masters and scholars at the University of Paris. The Caetani faction may have used the occasion of a papal coronation, which was a traditional moment of papal largess, and the interregnum created by the death of Louis X and the regency of Philip, count of Poitiers, to bring the University of Paris back into the orbit of papal patronage. Marsilius' success, however, in gaining an expectation was not a result of this policy initiative but a result of

³⁰ In discussing the importance of family (uncles and nephews, brothers and cousins), teacher-student relationships, and other networks developed or intensified during a period of university study, Verena Postel, "*Communitar inito consilio: Herrschaft als Beratung*," in *Politische Reflexion*, ed. Kaufold, pp. 1–25, at p. 20, takes as a late medieval example the interlocking careers of Balduin of Luxembourg, archbishop of Trier; Jacques Fournier, Cistercian abbot, bishop, and later Pope Benedict XII; and Johann Hake, bishop of Göttingen, all of whom knew each other from their student days at Paris. Johann, as a pupil of Peter of Abano at Paris, also knew Marsilius of Padua and John of Jandun as fellow students, all of whom for a time enjoyed the patronage of Cardinal Jacobus Caetani Stefaneschi before transferring their allegiance to Ludwig of Bavaria.

³¹ See above, note 27.

³² A more extensive version of this argument can be found in W.J. Courtenay, "John XXII and the University of Paris," in *La vie culturelle, intellectuelle et scientifique à la cour des papes d'Avignon*, ed. Jacqueline Hamesse (Turnhout, 2006).

personal contact through a network that had been developed at Paris. While Marsilius chose executors connected to Padua for his provision, including William of Brescia, former professor of philosophy at Padua and subsequently of medicine at Bologna as well as physician to Boniface VIII, Reginald included among his executors Johannes de Montibus, cantor at Notre Dame in Paris and a signatory to the university's appeal to the pope in 1313, and Petrus de Reate, canon at Auxerre and chaplain to Jacobus Stefaneschi.³³ Whether Marsilius traveled to Avignon in August 1316 from Paris or Padua, his route to papal provision was Parisian.

Marsilius pursued the route of papal patronage until political conditions in northern Italy in the summer and fall of 1318 made it apparent that he was more likely to gain a position in Padua through the patronage of Cangrande della Scala of Verona than through John XXII.³⁴ He used his contacts with the royal court at Paris, acquired during his years of teaching and his term as rector, to attempt to persuade Charles, count of La March and younger brother of Philip V, to bring French knights into Lombardy on behalf of Cangrande and Matteo Visconti, lord of Milan, and to lead the Ghibelline forces in the conquest of Padua.³⁵ His co-conspirator in this endeavor was Hugues Morcelle, prior of the secular abbey of Montfauçon in the Périgord region of France, who with uncanny foresight had acquired benefices in Germany in 1317 through papal patronage, specifically a canonical prebend in the cathedral chapter at Mainz and the office of prior at Frankfurt, before his defection from the papal cause.³⁶ When, where, and in what context Hugues Morcelle and Marsilius of Padua came to

³³ On Johannes de Montibus and the appeal, see W.J. Courtenay, "Foreign Scholars," pp. 62, 72. For the letter of provision to Reginald, see *LC Jean XXII*, #1486. On Petrus de Reate, in addition to his being an executor on Reginald's provision, see *LC Jean XXII*, #13205 and #16414. Peter died late in 1323, and his canonical prebend in the cathedral chapter at Auxerre was granted to Vitalis de Prinhaco, *LC Jean XXII*, #18875, who later became cantor at Notre Dame in Paris.

³⁴ As late as April 1318 Marsilius was successful in obtaining a papal provision for an expectation of a benefice in the gift of the bishop of Padua; see *LC Jean XXII*, #5502. A year later an angry John XXII was accusing Marsilius of being a traitor; see *LC Jean XXII*, #859, 860. A fuller account of Marsilius' shift in allegiance can be found in Courtenay, "University Masters and Political Power," pp. 218–21.

³⁵ In addition to having held the office of rector, which would have brought him into contact with the royal court, two of Marsilius' associates, Nicolaus of Vienne (who succeeded him as rector) and Andreas of Florence, were royal clerks.

³⁶ *LC Jean XXII*, #4078, 4079. For more details on Hugues Morcelle and these events, see Courtenay, "University Masters and Political Power," pp. 218–20.

know each other, as well as the extent of their common interest, has yet to be uncovered. In any event, the Ghibelline conquest of Padua failed, and partially at the urging of his friend Albertino Mussato, Marsilius returned to Paris as regent master of arts and student in the faculty of theology, supporting himself by teaching philosophy and by practicing medicine on the side.³⁷

THE SECOND PARISIAN PERIOD

In 1319–20 Marsilius was back in Paris, beginning or continuing his studies in theology, having by his actions in favor of the Ghibelline faction in Italy forfeited forever any chance of papal preferment. His only course of action toward a career and financial security was through his friends and contacts at Paris and through his connections with the royal court. His closest associates in this period were John of Jandun, fellow regent master in the faculty of arts, and Robert de Bardis, a member of the Bardi Florentine banking family, student in theology concurrent with Marsilius, absentee dean of the cathedral chapter at Glasgow, and protégé of Louis, count of Clermont and duke of Bourbon. Also among his table companions were Andreas de Reate, a wealthy medical student from the area of Rome, and Peter and Andreas of Florence, both regent masters in the faculty of medicine at Paris. The latter was also in royal service. Some in this circle, specifically John of Jandun, Robert de Bardis, and Nicolas of Vienne, were associated with the Sorbonne and rented housing from that college. In light of Marsilius' behavior in Italy, it is unlikely that he could expect favorable treatment from the provisor of the Sorbonne, Annibaldus de Ceccano, who held that office from 1320 to 1326.

During this period, Marsilius was an auditor in theology, attending lectures on the Bible and the *Sentences* of Peter Lombard. It is not impossible that he also attended courses in the faculty of medicine, but his primary studies were in theology. We have no way of knowing under whom he studied, but the most likely candidate would have been William Bernard of Narbonne, who also would have belonged to the Bourges province of the French nation when he was active in the faculty of arts in the first decade of the fourteenth century. Other secular

³⁷ As was noted above, the political and military circumstances mentioned in Mussato's letter-poem corresponds better to 1319 than to 1311.

masters who were regents in the faculty of theology at Paris for part of this period were the Mertonian scholars Walter Burley and Thomas Wilton; Thomas de Bailly, who was chancellor as well as regent master; Bernard of Gamaches, a Picard master; and John of Blangy, a Norman master. Jean de Pouilly, one of the most active secular theologians at Paris in this period, returned to active regency after his recantation in 1321. Marsilius might also have attended lectures and disputations of bachelors in the religious orders, such as Francis of Marchia, OFM; Francis of Meyronnes, OFM; Pierre Roger, OSB; James of Pamiers, OESA; and Aufredus Gonteri, OFM.

In addition to his theological studies, this was the period in which Marsilius wrote all or most of the *Defensor pacis*, which he completed in 1324. In this treatise, he draws upon his experience with communal organization and political life at Padua, his experience and disappointments with papal administration and the provisioning of scholars, his memories of a strong French monarchy under Philip the Fair, and the potentially stabilizing role of Ludwig the Bavarian in Italy after 1322.

CONCLUSION

Despite a long historiography that links Marsilius and his *Defensor pacis* to Padua and political conditions in Italy, most of his education, teaching, and writing in the first three decades of the fourteenth century occurred at Paris. The core of his world was the University of Paris and a circle of friends, most of them Italian, who were active in the faculties of arts, medicine, and theology, yet with connections to the royal court of Philip IV, Philip V, and Charles IV. A close analysis of the early career of Marsilius suggests that his strong anti-papal attitude did not develop until the summer of 1318 and was initially shaped by political considerations and career choices at that time, and thus the crucial period for the germination and writing of his *Defensor pacis* lies in the 1318–24 period. And although the notoriety of that work meant that Marsilius was never to return to Paris, subsequent chapters in the history of the *Defensor pacis*, especially its translation into vernacular languages beginning with the (anonymous) French translation before 1375, were thought by subsequent popes to be centered at Paris.³⁸

³⁸ *Chartularium Universitatis Parisiensis*, ed. H. Denifle and É. Châtelain, vol. 3 (Paris, 1894), no. 1406.

CHAPTER THREE

MEDICINE AND THE BODY POLITIC IN MARSILIUS OF PADUA'S *DEFENSOR PACIS*

Takashi Shogimen*

MEDICAL SCIENCE, POLITICAL THOUGHT, AND MARSILIUS OF PADUA

Marsilius of Padua is probably one of the best known political philosophers of medieval Europe; it is less well known, however, that he started his academic career as a physician. An epistle from the notary and poet Albertino Mussato to Marsilius is considered to be the chief source of information about Marsilius' early life. According to this, Marsilius asked Mussato whether he ought to study medicine or law. Mussato criticized Marsilius for being governed by venal motives and suggested that he study medicine. Following the advice, Marsilius decided to pursue a medical education. Whether in Paris or Padua, Marsilius studied with Peter of Abano, one of the leading medical authorities in the late Middle Ages. However, Mussato indicated angrily that an "outstanding doctor"—possibly Peter of Abano—advised Marsilius "not to study too long since he could make a good living from practice."¹ Indeed, the popular verse reads: "Galen provides wealth, Justinian (that is, a law degree) office." It remains unknown whether Marsilius completed his medical studies. However, it is certain that he was familiar with medical learning: he is known to have owned a copy of Peter of Abano's *Expositio Problemata Aristotelis*.²

Medical writings by Marsilius, if such works were ever written, have not survived. However, the *Defensor pacis* alludes to his medical knowledge by frequently comparing the civil community with an

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¹ Nancy G. Siraisi, *Arts and Sciences at Padua: The Studium of Padua before 1350* (Toronto, 1973), pp. 163–65.

² Siraisi, *Arts and Sciences at Padua*, p. 164.

animal body. This can be attributed to Marsilius' early academic training in medicine. The so-called "organic analogies" prevalent in medieval political writings have long attracted interest from experts.³ But only fairly recently has the possibility that medical knowledge might underlie Marsilius' organic analogies received scholarly attention. The pioneering work was carried out by Jeannine Quillet, who suggested in her French translation of the *Defensor pacis* that some passages of the work relied on Peter of Abano's medical treatise *Conciliator differentiarum philosophorum et precipue medicorum*.⁴ The research on Marsilius' medical sources was developed by Paolo Marangon, the leading expert on the history of late medieval Padua situated the *Defensor pacis* in the context of early fourteenth-century academic learning, thereby highlighting textual similarities between the Marsilian text and some medical writings by Zambonino da Gazzo and Peter of Abano.⁵ In her recent translation of the *Defensor pacis*, Annabel Brett made several useful observations about the relationship between Marsilius and various medical authorities, including Avicenna, Peter of Abano, and Dino del Garbo.⁶ A new collection of essays on Marsilian studies, *The World of Marsilius of Padua*, clearly illustrates the growing interest in Marsilius' medical knowledge: Floriano Jonas Cesar and Joseph Canning briefly touched upon Marsilius' use of medical language,⁷ and Alexander Aichele examined Marsilius' use of the body-state analogy in the light of contemporary medical theory and Aristotelian ontology.⁸

³ See below notes 30–33.

⁴ Marsilius of Padua, *La Défenseur de la paix*, trans. Jeannine Quillet (Paris, 1968). Also Jeannine Quillet, *La Philosophie politique de Marsile de Padoue* (Paris, 1970), especially ch. 5.

⁵ Paolo Marangon, "Marsilio tra preumanesimo e cultura delle arti ricerca sulle fonti padovane del I discorso del 'Defensor pacis,'" in his *Ad cogitationem scientiae festinare: gli studi nell'università e nei conventi di padova nei secoli XIII e XIV* (Trieste, 1997), pp. 380–410. See also his "Il trattato 'de conservatione sanitatis' di Zambonino da Gazzo († dopo il 1298)," in Marangon, "Marsilio tra preumanesimo," pp. 345–61.

⁶ Marsilius of Padua, *The Defender of the Peace*, trans. Annabel Brett (Cambridge, 2005).

⁷ Floriano Jonas Cesar, "Divine and Human Writings in Marsilius of Padua's *Defensor pacis*: Expressions of Truth," in *The World of Marsilius of Padua*, ed. Gerson Moreno-Riaño (Turnhout, 2006), pp. 109–23; Joseph Canning, "Power and Powerlessness in the Political Thought of Marsilius of Padua," in *The World of Marsilius of Padua*, ed. Moreno-Riaño, pp. 211–25.

⁸ Alexander Aichele, "Heart and Soul of the State: Some Remarks Concerning Aristotelian Ontology and Medieval Theory of Medicine in Marsilius of Padua's *Defensor pacis*," in *The World of Marsilius of Padua*, ed. Moreno-Riaño, pp. 163–86.

Marsilius was not the only political philosopher with a medical background. One of the earliest scholastic thinkers who commented on politics and displayed serious interest in medicine was Albertus Magnus (c. 1200–80). In his *De animalibus*, the Dominican theologian examined a number of contradictions among Aristotle, Galen, and others. Although Albertus was not a medical scientist by training, he recognized medicine as an autonomous discipline:

Augustine is to be preferred rather than the philosophers in case of disagreement in matters of faith. But if the discussion concerns medicine, I would rather believe Galen or Hippocrates, and if it concerns things of nature, Aristotle or anyone else experienced in natural things.⁹

Thus Albertus situated medicine on the map of scholastic learning. The Austin theologian and staunch papalist Giles of Rome wrote a medical treatise on conception: *De formatione corporis in utero* (*On the Formation of the Body in the Uterus*). In it, Giles expounded his largely Aristotelian and anti-Galenic physiological views.¹⁰ Likewise, Engelbert of Admont, abbot of the Benedictine monastery at Admont, whose treatise on the empire is widely known, also wrote extensively on medicine.¹¹ The German cardinal and neo-Platonic philosopher Nicholas of Cusa studied in Padua, imbibing knowledge of medical studies,¹² and among his friends was Paolo da Toscanelli, a mathematician, astronomer, geographer, and physician. Cusa's surviving library at Kues contains a range of medical books,¹³ which seems to suggest a serious interest in medical learning. Clearly, the relationship between medicine and political thought in the Middle Ages is not as distant as it might at first appear.¹⁴

⁹ Cited in Nancy G. Siraisi, "The Medical Learning of Albertus Magnus," in her *Medicine and the Italian Universities, 1250–1600* (Leiden, 2001), p. 13.

¹⁰ M. Anthony Hewson, *Giles of Rome and the Medieval Theory of Conception* (London, 1975), pp. 52–53, 241.

¹¹ George Bingham Fowler, *Intellectual Interests of Engelbert of Admont* (New York, 1947), ch. 4.

¹² Nicholas of Cusa, *The Catholic Concordance*, trans. Paul E. Sigmund (Cambridge, 1991), p. 319, note 14.

¹³ Fr X. Kraus, "Die Handschriften-Sammlung des Cardinalis Nicolaus von Cusa," *Serapeum* 26 (1865), 69–74.

¹⁴ Political thinkers' access to medical knowledge is not unique to the Middle Ages. Both Thomas Hobbes and James Harrington drew on William Harvey's new physiology in their political theory (I. Bernard Cohen, "Harrington and Harvey: A Theory of the State based on the New Physiology," *Journal of the History of Ideas* 55 [1994], 187–210). John Locke is probably the best-known instance of a physician who was also

Political thinkers' interest in medical science could not have been cultivated without the reawakening of medicine as an academic discipline in the Middle Ages. Salerno had been known as the center of medical studies long before the rise of the universities. By the early thirteenth century, other centers of medical learning, including Oxford, Paris, Montpellier, Bologna, and Padua, had emerged. The number of medical students, however, was generally small due to the prohibitive fees: at fifteenth-century Oxford, for example, one student of medicine graduated every two years. Moreover, Bologna produced only 65 graduates in medicine and one in surgery between 1419 and 1434. Padua's medical faculty was perhaps exceptionally large; likewise, at Padua, medical students constituted ten percent of the total of the student population.¹⁵

The late thirteenth and early fourteenth centuries were a period of innovation in medical studies. Medicine, as a scholastic discipline, was shaped by such great minds as Arnald of Villanova (c. 1238–1311) at Montpellier, Taddeo Alderotti (d. 1295) at Bologna, and Peter of Abano (c. 1250–c. 1315) at Padua. They inquired into a wide range of questions, from the nature of medical knowledge, to the fundamental problems of physiology, pathology and therapeutics, and to a variety of topics at which we moderns may sneer: for example, "Does milk nourish the breast?" "When a finger is cut, is this a disease in number or in quality?" and the like. The later thirteenth and early fourteenth centuries also witnessed the development of surgery and anatomy. The first recorded public dissection in the Middle Ages was performed around 1315 by Mondino de' Luzzi (c. 1275–1326) in Bologna. Henri de Mondeville (c. 1260–c. 1325), a leading anatomist, enshrined the technical art of surgery and Guy de Chauliac (c. 1298–1368), Mondeville's successor as doctor and surgeon to the popes at Avignon, composed a treatise on surgery that remained a standard textbook until the eighteenth century.¹⁶

a political philosopher. Further, the close relationship between medicine and political thought is not limited to the European world. The medieval Jewish philosopher Maimonides was a court physician who wrote on politics. Ogyu Sorai, the father of "modern" political thought in Tokugawa Japan, was well versed in medicine, since he was born into the family of a physician.

¹⁵ Vivian Nutton, "Medieval Western Europe, 1000–1500," in *The Western Medical Tradition 800 BC to AD 1800*, ed. Lawrence I. Conrad, Michael Neve, Vivian Nutton, Roy Porter, and Andrew Wear (Cambridge, 1995), pp. 139–205, at p. 156.

¹⁶ For the survey of medieval medicine, see Nancy G. Siraisi, *Medieval and Early Renaissance Medicine: An Introduction to Knowledge and Practice* (Chicago, 1990);

The flowering of medicine from the thirteenth century onwards originates in the translation of medical works of ancient Greek and medieval Arabic authorities. Plato's *Timaeus* had been firmly established as an authoritative text on natural philosophy beginning in the twelfth century.¹⁷ Meanwhile, Salerno emerged as the first medieval western center of medical studies as a result of introducing Arabic medicine. One of the key figures in the translation of Arabic medical writings is Gerard of Cremona (fl. 1150–87 in Toledo, Spain). Gerard translated Galen's *Method of Healing*, and he and his colleagues produced a translation of Avicenna's gigantic *Canon*.¹⁸ While Avicenna's *Canon* enjoyed wide circulation, Galen's major medical works were not translated into Latin before the middle of the thirteenth century. Hence, many references to Galen by thirteenth-century authors were often dependent on Avicenna, which resulted in a rather confused understanding of Galen.¹⁹

Aristotle's works on natural philosophy were not translated until the early thirteenth century. Aristotelian natural philosophy was proscribed in lectures at Paris in 1210; however, the effect of the prohibition was insignificant. Aristotelian learning had already been solidly established at universities, and nothing prevented Aristotle's writings on natural philosophy from being translated. Probably before 1220, Michael Scot translated three of the five treatises of the *De animalibus*—the *Historia animalium*, *De partibus animalium*, and *De generatione animalium*—into Latin.²⁰ Both Michael Scot's translation and William of Moerbeke's rival versions circulated widely in the thirteenth and fourteenth centuries.²¹

Ancient Greek and medieval Arabic medical knowledge, however, was not monopolized by the faculty of medicine. The Aristotelian medical views in particular were taught and studied in the faculty of

Nutton, "Medieval Western Europe, 1000–1500"; *Western Medical Thought from Antiquity to the Middle Ages*, ed. Mirko D. Grmek, trans. Antony Shugaar (Cambridge, MA, 1998).

¹⁷ *A History of Twelfth-Century Western Philosophy*, ed. Peter Dronke (Cambridge, 1988), especially, ch. 2.

¹⁸ Nutton, "Medieval Western Europe, 1000–1500," p. 143.

¹⁹ Owsei Temkin, *Galenism* (Ithaca, NY, 1973), pp. 95–116. Also Siraisi, "The Medical Learning of Albertus Magnus," pp. 391–92.

²⁰ Bernard G. Dod, "Aristotelis Latinus," in *The Cambridge History of Later Medieval Philosophy*, ed. Norman Kretzmann, Anthony Kenny, and Jan Pinborg (Cambridge, 1982), p. 48.

²¹ Dod, "Aristotelis Latinus," p. 52.

arts at medieval universities, where all students were required to enroll before preceding to their specialist training in theology, law, or medicine. At the thirteenth-century University of Paris, students in the arts faculty were expected to study all of Aristotle's works on natural philosophy, including *De animalibus*.²² Hence, while the medical educational curriculum mainly featured non-Aristotelian works—including Galen's *Tegni* and *Ars Parva*, Avicenna's *Canon*, and Hippocrates' *Aphorisms*—students were already familiar with Aristotle's medical views prior to admission to the faculty of medicine. And through the study of Aristotelian views, medieval arts students knew the contradictions between Aristotle and other medical authorities such as Galen.²³

The universities were not the only hub of medical learning; the diffusion of medical knowledge, anatomical and surgical knowledge in particular, is also attributable to the papal court. The rebirth of anatomy has often been associated with Pope Innocent III.²⁴ Indeed, the thirteenth century witnessed the warm reception of medical scientists by the papacy. The pontificate of Innocent III was the first to have a "papal doctor."²⁵ Before the thirteenth century, no medical doctors entered the papal record. After Innocent III, medical scientists found their niche in the papal court and increased their presence. By the pontificate of Boniface VIII, who is widely known for the uncompromising assertion of papal sovereignty, the papal court was inhabited by leading medical scientists of the time, including Taddeo Alderotti and Arnald of Villanova. Throughout the thirteenth century, medical doctors were increasingly in charge of the "care of the [pope's] body"

²² C.H. Lohr, "The Medieval Interpretation of Aristotle," in Kretzmann et al., eds., *The Cambridge History of Later Medieval Philosophy*, pp. 84–85. It was not only in Paris but also in Louvain and Cologne that all members of the faculty of medicine were required to have first completed their studies in arts. See Pearl Kibre, "Arts and Medicine in the Universities in the Later Middle Ages," in her *Studies in Medieval Science: Alchemy, Astrology, Mathematics and Medicine* (London, 1984), pp. 217–18.

²³ William of Ockham, for instance, who as far as we know had no medical interest or training at all, noted in his commentary on Aristotle's *Physics* Galen's contradiction of Aristotle on the importance of head and heart: Aristotle argued that the heart was the most important organ of the body, while Galen maintained that the brain and the liver were no less important than the heart. See William of Ockham, *Expositio in Libros Physicorum Aristotelis, vii, c. 2, 2*, in *Guillelmi de Ockham Opera Philosophica* 5 (St Bonaventure, 1985), p. 610.

²⁴ Y. O'Neill, "Innocent III and the Evolution of the Anatomy," *Medical History* 20 (1976), 429–31.

²⁵ Agostino Paravicini-Bagliani, *The Pope's Body*, trans. David S. Peterson (Chicago, 2000), p. 186.

(*cura corporis*);²⁶ just as the curial theologians contributed to empower papal authority theologically and ideologically, so “court physicians” offered advanced medical treatment for the prolongation of the pope’s life. Thus, the papal court recruited not only leading theologians and legal experts but also talented medical scientists, thus forming a potential forum for intellectual exchanges.

While medical knowledge became increasingly available to those who were not specialists in medicine, medical scientists began to study Aristotelian moral philosophy. The faculties of arts and medicine at Bologna, for example, introduced Aristotle’s *libri morales* into their curriculum before 1300, and Taddeo Alderotti and his disciples played a significant role in the reception of Aristotelian moral teachings. Thus Bartolomeo da Varignana commented on the *Economics*; William of Brescia lectured on moral philosophy; and, as we shall see, Turisanus referred to the ideas of good government and the moral virtues in his commentary on Galen’s *Tegni*.²⁷

In this intellectual and social milieu, a physician’s involvement in political theorizing was not uncommon, nor was political thinkers’ interest in medicine. Medical science was not far removed from political thought in the late Middle Ages, let alone in the thought of Marsilius.

ANALYZING MEDICAL METAPHOR

But how do we establish the link between medical science and political thought by examining Marsilius’ political writings? A serious problem in the investigation into the relationship between medicine and politics in the thought of Marsilius of Padua is the fact that he does not make explicit references to medical authorities.²⁸ The possible starting point for understanding Marsilius’ use of his medical knowledge in the *Defensor pacis* is to examine his organic analogies. Since John of Salisbury’s famous analogy between the body natural and politic, medieval political writings had been full of organic analogies. These analogies have been subjected to serious scholarly attention. At the

²⁶ Paravicini-Bagliani, *The Pope’s Body*, p. 225.

²⁷ Nancy G. Siraisi, *Taddeo Alderotti and His Pupils: Two Generations of Italian Medical Learning* (Princeton, 1981), pp. 72–95.

²⁸ Aichele, “Heart and Soul of the State,” p. 164.

turn of the twentieth century, Otto Gierke already identified organic analogies as a distinctive feature in medieval European political discourses.²⁹ Ewart Lewis and Paul Archambault, among others, followed Gierke's lead before Tilman Struve offered the most detailed account of organic analogies in the Middle Ages.³⁰ Meanwhile, Ernst Kantorowicz illuminated the persistence of bodily analogies into the sixteenth century.³¹ More recent scholarship has focused on individual medieval thinkers, in particular the twelfth-century humanist John of Salisbury. Various historians have discussed John's "anatomical" conception of the body politic, which underlined the diversity and uniqueness of the bodily parts, while Cary J. Nederman has characterized John's notion of bodies natural and politic as "physiological," which stressed cooperation between diverse elements of the body.³² Their interpretive disagreements notwithstanding, all these works highlight the ways in which bodily analogies were deployed; their focus was on the rhetorical function of the analogies. None of them attempted to illuminate the medical knowledge underpinning the analogies. Walter Ullmann and, more recently, John Najemy suggested the possibility of exploring the medical sources of the analogies,³³ but they did not pursue this line of research.

²⁹ Otto Gierke, *Political Theories of the Middle Ages*, trans. F.W. Maitland (Cambridge, 1900).

³⁰ F.W. Coker, *Organismic Theories of the State* (New York, 1910); Ewart Lewis, "Organic Tendencies in Medieval Political Thought," *American Political Science Review* 32 (1938), 849–76; Paul Archambault, "The Analogy of the 'Body' in Renaissance Political Literature," *Bibliothèque d'humanisme et renaissance* 29 (1967), 21–53; David Hale, *The Body Politic: A Political Metaphor in Renaissance English Literature* (The Hague, 1971); Tilman Struve, *Die Entwicklung der organologischen Staatsauffassung im Mittelalter* (Stuttgart, 1978).

³¹ Ernst Kantorowicz, *The King's Two Bodies* (Princeton, 1957).

³² Cary J. Nederman, "The Physiological Significance of the Organic Metaphor in John of Salisbury's *Policraticus*," *History of Political Thought* 8 (1987), 211–23; repr. in Nederman, *Medieval Aristotelianism and its Limits* (Aldershot, 1997); Nederman, "Body Politics: The Diversification of Organic Metaphors in the Later Middle Ages," *Pensiero politico medievale* 2 (2004), 59–87. Cf. W. Strüner, *Natur und Gesellschaft im Denken des Hoch- und Spätmittelalters* (Stuttgart, 1975), pp. 120–30; George Duby, *The Three Orders: Feudal Society Imagined*, trans. Arthur Goldhammer (Paris, 1980), pp. 264–67; Tilman Struve, "The Importance of the Organism in the Political Theory of John Salisbury," in *The World of John of Salisbury*, ed. Michael Wilks (Oxford, 1984), pp. 303–04; and Bernard Guenée, *States and Rulers in Later Medieval Europe*, trans. Juliet Vale (Oxford, 1985), pp. 43–44. Cary J. Nederman and I have recently produced the first account of John of Salisbury's medical knowledge in "The Best Medicine? Medical Education, Practice and Metaphor in John of Salisbury's *Policraticus* and *Metalogicon*," *Viator* 42 (2011), 55–74.

³³ Walter Ullmann, *Principles of Government and Politics in the Middle Ages* (London, 1961), p. 302, note 3; Ullmann, *The Individual and Society in the Middle Ages*

Could we use the presence of organic analogies as evidence for the interface between medical and political knowledge? Examining the medical foundations of organic analogies requires some methodological justification. For this purpose, I introduce “metaphor” as a category of analysis: in what follows, I shall not use the commonly used term *analogy*; instead, I will employ metaphor in the sense of cognitive linguistics. Conventionally, a metaphor was considered to be merely ornamental language, a “tool” that serves a rhetorical purpose. Hence metaphor was presumed to play no role in the process of conceptualization. An implication of this for the historian of ideas is that metaphors offer little of value for the conceptual understanding of a text. Recent theories of cognitive linguistics, however, reject this view; for them, rather, metaphor is the “understanding of one conceptual domain in terms of another conceptual domain.”³⁴ Put another way, it is a construal operation that involves a relationship between a source domain, the source of the literal meaning of the metaphorical expression, and a target domain, the domain of the experience actually being described by the metaphor. The generic metaphor that can be described in the form of “Domain A is domain B” is called a conceptual metaphor, from which various metaphorical linguistic expressions derive. For example, such metaphorical linguistic expressions as “I demolished his argument” and “He shot down all my arguments” are derived from the conceptual metaphor: “An argument is war.”

Since the 1980s, the cognitive linguist George Lakoff and the philosopher Mark Johnson have revolutionized our understanding of

(London, 1967), pp. 112–15; John M. Najemy, “The Republic’s Two Bodies: Body Metaphors in Italian Renaissance Political Thought,” in *Language and Images of Renaissance Italy*, ed. Alison Brown (Oxford, 1995), pp. 237–62. Probably the first attempt to explore the medical background of bodily metaphors in late medieval and early modern political thought is Gianluca Briguglia, *Il corpo vivente dello Stato: Una metafora politica* (Milan, 2006).

³⁴ Zoltán Kövecses, *Metaphor: A Practical Introduction* (Oxford, 2002), p. 4. The literature on cognitive linguistic theories of metaphor is enormous. In addition to some key texts which I cite below, the important works include Gilles Fauconnier, *Mental Spaces* (Cambridge, MA, 1985); Fauconnier, *Mappings in Language and Thought* (Cambridge, 1997); Mark Johnson, *The Body in the Mind: The Bodily Basis of Meaning, Imagination, and Reason* (Chicago, 1987); George Lakoff, *Women, Fire and Dangerous Things: What Categories Reveal about the Mind* (Chicago, 1987); George Lakoff and Mark Johnson, *Philosophy in the Flesh* (New York, 1999); and *Metaphor and Thought*, ed. Andrew Ortony, 2nd ed. (Cambridge, 1993). For a useful discussion of new theories of metaphor and their implications for the history of ideas, see Jeffery Zavadil’s PhD dissertation, “Anatomy of the Body Politic: Organic Metaphors in Ancient and Medieval Political Thought” (Arizona State University, 2006).

metaphor through their empirical examinations of everyday conventional linguistic expressions. Their investigations highlighted the existence of metaphorical relations or “mappings” between conceptual domains in the human mind. Metaphor, as mapping between two conceptual domains, according to Lakoff and Johnson, reveals that the ways in which human reason operates are profoundly metaphorical. “[M]etaphor is not just a matter of language, that is, of mere words...on the contrary, human thought processes are largely metaphorical...[The] human conceptual system is metaphorically structured and defined.”³⁵ Lakoff and Johnson thus rejected the traditional view that metaphor was merely decorative and fancy speech and a linguistic, not a conceptual, phenomenon; instead, they emphasized metaphor’s role of conceptually categorizing our experience. “We classify particular experiences in terms of experiential gestalts in our conceptual system,” and metaphor “picks out the ‘important’ aspects in the experience”³⁶ and also de-emphasizes or hides other aspects of it.³⁷ Metaphor in this sense is nothing other than the human thought process of categorization.

The most significant dimension in this new theory of metaphor in connection with our investigation is the idea that “conceptual metaphors are grounded in experience, whether perceptual, biological, or cultural.”³⁸ The choice of a particular source domain to match a particular target domain is motivated by an experiential basis. For example, affection is typically related to bodily warmth, and understanding often correlates with digesting. Both “affection” and “understanding”—the abstract concepts—are understood in terms of our bodily experience of “warmth” and “digestion” respectively. Lakoffian cognitive linguists thus emphasize that the metaphorical mappings are motivated by the experiential basis, without which a conceptual metaphor does not make sense and hence is incommunicable. Hence, it can be inferred that medical metaphors in the context of a political argument are impossible without some kind of medical knowledge, professional or otherwise. This is obvious if one realizes that no conceptual metaphor such as the “human mind is a computer” or “individuals in the society are cells in the human body” was possible in the Middle Ages. Medi-

³⁵ George Lakoff and Mark Johnson, *Metaphor We Live By* (Chicago, 1980), p. 6.

³⁶ Lakoff and Johnson, *Metaphor We Live By*, p. 83.

³⁷ Lakoff and Johnson, *Metaphor We Live By*, pp. 66–67.

³⁸ Kövecses, *Metaphor*, p. 69.

cal knowledge provides the mental image in terms of which a political concept is metaphorically structured. The mental image of medical treatment, for example, is provided by the theoretical understanding of medical treatment of the architect of the metaphor.

Exploring the background of medical metaphors in political writings therefore illuminates how politics was metaphorically conceptualized in the light of medical knowledge. The application of a cognitive linguistic approach to the analysis of metaphor sheds light on the thought process of the writer of the political text. A writer of a political text invokes numerous mental images in order to structure his or her understanding of the subject about which he or she is writing. In this process, metaphors categorize the author's experience of political theorizing, thereby emphasizing some aspects of it while de-emphasizing others. The conceptual metaphor "individuals in the society are cells in the human body," for example, structures the concept of society in terms of cohesiveness and mutual co-operation between individuals constituting the society but de-emphasizes the unique attributes of the individuals.

Taking metaphors seriously helps to identify possible intellectual sources. Political writers have recourse to a variety of metaphors: medical, musical, mathematical, military, navigational and so on. These metaphors reveal the experiential bases in medicine, music, mathematics, war, sailing, etc. These experiential bases constitute part of the intellectual and social context in which a given text was written.³⁹ Hence, the cognitive linguistic approach to a text contributes to a greater understanding of intellectual and social contexts. The history of ideas, dominated as it is by the so-called Cambridge School contextualist historians, is inclined to focus on the analysis of authorial intentions. The cognitive approach attempts to decipher an author's thought process of mental imaging in the composition of the text. Hence, this chapter is not primarily interested in what Marsilius intended when he used medical metaphors. Rather, what follows is an attempt to inquire how Marsilius' medical metaphors are professionally and academically grounded, thereby establishing medicine as an intellectual source for the *Defensor pacis*.

³⁹ Here I define the "context" broadly, to include intellectual and social sources of metaphorical linguistic expressions, on the grounds that metaphors are conceptual, not merely linguistic, phenomena.

The reverse side of employing a cognitive perspective on metaphor is that we are not exploring medieval political thinkers' use of analogy (*analogia*). In medieval philosophy, metaphor is a comparison of concepts or terms, maintaining that something about one term has a similar property, or exactly the same property, as something about another term. Analogy, particularly as understood by medieval thinkers after Thomas Aquinas, is a metaphysical assertion about the referents of the terms, asserting proportionality of being between the two things. The medieval conception of metaphor, by contrast, lacks an ontological matching between the two *relata*; hence, metaphor is often associated with fallacious locutions. In the light of the training in Aristotelian logic at medieval universities, therefore, the medieval political thinkers I examine here were actually employing "analogies" rather than "metaphors."⁴⁰ However, exploring an individual thinker's logical understanding of analogy and its methodological relationship to the use of analogies in political writings is not within the scope of the present study: it pertains to the question of how and why a particular thinker applied *his* logic/metaphysic of analogy to his political argument, thus concerning the question of intentionality that does not fall within my scope.

This is not to deny that a contextual analysis of authorial intention is an important concern for the historian of ideas. To the contrary, the cognitive analysis of metaphors will enrich our understanding of the intellectual and social context of a text, thereby enabling us to contextualize it more fully and accurately. Indeed, after identifying medical learning as an intellectual context for the *Defensor pacis*, I shall explore in the final section of this chapter some of the implications of medical learning for the interpretation of the *Defensor pacis*. We shall see that Marsilius' way of political theorizing in Discourse I is methodologically modeled on medical science. The medical outlook enabled Marsilius to discuss civil politics on its own terms without teleological subjection to spiritual powers. The "medicalization" of political theory resulted in the autonomy of the discourse on civil politics.

We shall now turn to examine various medical metaphors in the *Defensor pacis*, drawing on Najemy's classification. He identified two

⁴⁰ On medieval theories of analogy, see, for example, Armand Maurer, "Analogy in Patristic and Medieval Thought," *Dictionary of the History of Ideas*, ed. Philip E. Wiener (New York, 1973–74) available on line at <http://etext.virginia.edu/cgi-local/DHI/dhi.cgi?id=dv1-10#>; E.J. Ashworth, "Analogy and Equivocation in Thirteenth-Century Logic: Aquinas in Context," *Mediaeval Studies* 54 (1992), 94–135.

contrasting types of bodily metaphors: one is of a “bounded” body which constitutes a system of “order, health, containment, and control.” This image of the body was illustrated by three metaphorical models: a “republic of equal parts co-operating for the health of the whole,” a “generative and natural hierarchy in which the parts are subordinated to the power and nobility of the chief part,” and a “deformed monster.” The other bodily metaphor Marsilius deployed was based on the image of an unbounded “body of contraries, of unpredictable actions and passions, a theatre of danger, and a potential threat to the rational soul that presumes to control it.”⁴¹ This chapter will inquire into the medical—anatomical, physiological, pathological, and teratological—background of the four different metaphorical models of the Marsilian body politic. Viewing medical metaphors as the conceptual mappings between politics and medicine, we shall see that in some (if not all) cases, metaphors can be used as evidence that establish the link between medical and political knowledge, thus suggesting that medical learning was one of the intellectual sources by which Marsilius was theoretically inspired.⁴²

CO-OPERATION BETWEEN FUNCTIONAL PARTS: THE ANATOMY OF THE BODY POLITIC?

The city is like a kind of animate or animal nature. For an animal which is in a good condition in respect of its nature is composed of certain proportionate parts arranged in respect of each other, all communicating their actions between themselves and towards the whole; likewise too the city which is in a good condition and established in accordance with reason is made up of certain such parts. A city and its parts would therefore seem to be in the same relation to tranquility as an animal and its parts is to health.⁴³

⁴¹ Najemy, “The Republic’s Two Bodies,” pp. 245–49.

⁴² Marsilius’ medical metaphor is not limited to the one of doctrine. For example, he deployed the conceptual metaphor “a priest of a civil community is a physician for a patient.” This metaphor focuses on the social role of a physician, deriving from the knowledge of medical practice. See George Rosen, “The Historical Significance of Some Medical References in the *Defensor pacis* of Marsilius of Padua,” *Sudhoffs Archiv für Geschichte der Medizin* 37 (1953), 35–56; Siraisi, *Arts and Sciences at Padua*, p. 165.

⁴³ Marsilius of Padua, *The Defender of the Peace*, trans. Brett, p. 12; Marsilius of Padua, *Defensor pacis*, ed. C.W. Previté-Orton (Cambridge, 1928), I.ii.3, pp. 7–8: “Debentes itaque describere tranquillitatem et suum oppositum, suscipianus cum Aristotele I et V Politicae suae, capitulis 2 et 3, civitatem esse velut animatam seu

Marsilius compares the city to the “animal body” in order to define “tranquility.” “Tranquility” is a key concept in Marsilian political theory: it is indeed considered essential for the fulfillment of the goal of a civil community, “the sufficient life.”

Marsilius writes that “health is an animal’s optimal condition according to nature.” “Likewise,” he continues, “tranquility is the optimal condition of a city established according to reason.” From the common medical view that “health... is that good condition of an animal, in which each of its parts is enabled perfectly to perform the operation appropriate to its nature,” it can be inferred by “analogy” that “tranquility will... be that good condition of a city of realm, in which each of its parts is enabled perfectly to perform the operations appropriate to it according to reason and the way it has been established.”⁴⁴ Similarly, “just like the sickness of an animal,” lack of tranquility is defined as the “bad condition of a city or realm in which all or some of its parts are prevented from performing the operations appropriate to them.” Jeannine Quillet suggested that Marsilius’ definition of health is similar to Peter of Abano’s. According to Peter, health is a “good disposition by which an animal exercises its actions and accepts natural receptions.”⁴⁵ Marsilius did not mention Peter’s name explicitly, but it is plausible that he assumed his teacher’s definition.

Marsilius’ medical metaphor highlights the proportionality of and co-operation between parts of the body politic. The emphasis on mutual aid within the body politic is not unique. John of Salisbury, for example, devoted Books 5 and 6 of his encyclopedic treatise *Polycraticus* to a comparative analysis of the structure and function of the bodies natural and political. John claims that his bodily metaphors are based on a letter of *Instruction of Trajan*, ascribed to Plutarch but in fact his own invention. John first distinguishes the soul from the body. The soul corresponds to those who administer the practice of religion. “Indeed, those who direct the practice of religion ought to be esteemed and venerated like the soul in the body... just as the soul has

animalem naturam quandam. Nam sicuti animal bene dispositum secundum naturam componitur ex quibusdam proportionatis partibus invicem ordinatis, suaque opera sibi mutuo communicantibus et ad totum, sic civitas ex quibusdam talibus constituitur cum bene disposita et instituta fuerit secundum rationem. Qualis est igitur comparatio animalis et suarum partium ad sanitatem, talis videbitur civitatis sive regni et suarum partium ad tranquillitatem.”

⁴⁴ Marsilius of Padua, *Defensor pacis*, ed. C.W. Previté-Orton, pp. 12–13.

⁴⁵ *La Défenseur de la paix*, p. 51, note 14.

rulership of the whole body so those who are called prefects of religion direct the whole body.”⁴⁶ The soul stimulates and rules the head, and the position of the head corresponds to a prince, who is “subject only to God and to those who act in His place on earth.”⁴⁷ At the heart of the commonwealth is the senate, “the office of counsel and rulership.”⁴⁸ The eyes, ears, and tongue of the prince are the governors of provinces, who rule provinces in the name of the prince. Financial officers and keepers are compared to the stomach and intestines. The armed hand is soldiers, and the unarmed hand is tax collectors. Finally, the feet are compared to peasants “perpetually bound to the soil.”⁴⁹ John’s bodily metaphor clearly defines the functional attributes of various parts of the body politic and underlines the co-operative relationship between them.

However, there is a noticeable difference between John’s and Marsilius’ metaphors: John’s metaphors make specific references to such bodily parts as head, eyes, tongue, arms, stomach, and legs, while Marsilius’ referred vaguely to “parts.” In short, Marsilius’ metaphors are not anatomical. Indeed, when he comes to discuss various parts in detail, Marsilius explained functional parts of the city in relation to the diverse needs and desires of human beings, without reference to physical parts of the human or animal body. He divides human actions derived from the function of the soul into two: the nutritive part and the cognitive and appetitive part. Marsilius wrote:

Now of human actions and their receptions, some are the result of natural causes without our knowledge: such as come about through the

⁴⁶ John of Salisbury, *Policraticus*, ed. and trans. Cary J. Nederman (Cambridge, 1990), V.ii.67. The modern critical edition of the original Latin text is John of Salisbury, *Policraticus*, ed. C.C.J. Webb (Oxford, 1909). On John’s organic metaphor, see especially Struve, “The Importance of the Organism in the Political Theory of John of Salisbury,” and Nederman, “The Physiological Significance of the Organic Metaphor in John of Salisbury’s *Policraticus*.”

⁴⁷ John of Salisbury, *Policraticus*, ed. Nederman, V.ii.67.

⁴⁸ John of Salisbury, *Policraticus*, ed. Nederman, V.ix.81.

⁴⁹ John of Salisbury, *Policraticus*, ed. Nederman, V.ii.67. cf. also VI.xx.125–26. This graphic representation of the political community as the human body proved highly influential; for example, the thirteenth-century republican Ptolemy of Lucca and the late fourteenth-century female political philosopher Christine de Pizan drew on John’s organic metaphors in their political works: Ptolemy of Lucca, *On the Government of Rulers: De Regimine Principum*, ed. James M. Blythe (Philadelphia, 1997); Christine de Pizan, *The Book of the Body Politic*, ed. Kate Langdon Forhan (Cambridge, 1994). For Christine’s use of bodily metaphors, see Kate Langdon Forhan, *The Political Theory of Christine de Pizan* (Aldershot, 2002), especially, ch. 3.

conflicting nature of the elements that make up our bodies, because they are mingled together. We can appropriately set down the actions of the nutritive part as being of this sort...Of this kind too are alterations brought about by things entering human bodies, such as foods, drinks, medicines, poisons and the like. There are other actions and receptions, however, which come from us or occur within us as a result of our cognitive and appetitive powers. Some of these are called “immanent”...whereas others are...called “transitive.”⁵⁰

Marsilius explains that “in order to temper and to safeguard the acts of the nutritive part of the soul—and if this ceased, the animal would simply perish, both individually and as a species—agriculture and animal husbandry were instituted.”⁵¹ Production and acquisition of food thus constitute a functional part of the body politic. Meanwhile, “In order to moderate the actions and receptions of our bodies which result from those elements that surround us externally and their impact upon us, man discovered mechanics: e.g. wool-making, tanning, cobbling, all the skills of building...”⁵² Thus, another functional part that contributes to sensorial delight is instituted: the manufacturing part.

In terms of our cognitive and appetitive faculties, there must be within a city a particular part or office through which the excesses of...acts might be corrected and reduced to equality or due proportion. For otherwise they would cause fighting and consequently the separation of the

⁵⁰ Marsilius of Padua, *The Defender of the Peace*, trans. Brett, pp. 24–25; Marsilius of Padua, *Defensor pacis* I.v.4, p. 16: “*Actionum* autem humanarum et suarum *passionum* quaedam proveniunt a causis naturalibus praeter cognitionem, quales fiunt per elementorum contrarietatem nostra componentium corpora propter ipsorum permixtionem. In quo genere reponi possunt convenienter actiones particulae nutritivae. Quod etiam capitulum ingrediuntur actiones, quas faciunt elementa nostrum corpus continentia per alterationem suarum qualitatum; de quorum genere sunt etiam alterationes quae fiunt ab ingredientibus humana corpora, veluti sunt cibi, potus, medicinae, venena, et reliqua similia huius. Aliae vero sunt *actiones* et *passiones* a nobis vel in nobis per virtutes nostras cognoscentes et appetentes, quarum quaedam vocantur *immanentes*, ut quia non transeunt in aliud subiectum a faciente, nec exercentur per aliquod exteriorum organorum seu membrorum motorum secundum locum, ut sunt cogitationes et hominum desideria seu affectiones. Aliae vero sunt et dicuntur *transeuntes*, quia modo altero vel utroque praedictorum oppositae se habent immediate praedictis.” I replaced the word *passions* in Brett’s translation with *receptions*. *Passiones* is “the passive correlates of actions”; see Martin Tweedale, “Abelard and the Culmination of the Old Logic,” in *The Cambridge History of Later Medieval Philosophy*, ed. Kretzmann et al., pp. 143–57, at p. 144.

⁵¹ Marsilius of Padua, *The Defender of the Peace*, trans. Brett, p. 25.

⁵² Marsilius of Padua, *The Defender of the Peace*, trans. Brett, pp. 25–26.

citizens, and in the end the destruction of the city and the loss of the sufficient life.⁵³

The part that mediates and resolves the inconvenience or injury of someone in the city is thus formed—it is called by Aristotle “the judicial or the princely or councilor”: in a word, government. Further, the warrior part was instituted to defend the city from external enemies and to execute the sentences of the judges on internal conflicts with coercive force; the provision of necessities and utilities “at the right time” also requires another part called the “treasury”; and finally, in order to worship God and to induce virtuous acts in the civil life, the priestly part was established.⁵⁴

Marsilius’ presentation of the diversity of the functional parts in the body politic clearly derives from a variety of human needs and desires for the maintenance of peaceful and orderly civic life; here Marsilius does not employ the language of traditional organicism. This forms an interesting contrast with Nicholas of Cusa’s metaphorical discussion. The German cardinal and mystical philosopher concluded his *Catholic Concordance*, a systematic treatise that discussed the principles of government in the Roman Church and the Holy Roman Empire, with a conceptual metaphor: “Church and Empire are the soul and the body of the human being respectively.” The body consisted of bones, nerves, and flesh. Cusa compared the nerves to the imperial laws, the head to the emperor, the country to the bones, and the flesh to “the transitory men.”

The harmony of the ecclesiastical order depends upon “the divine and canonical sanctions,” which stem from the Holy Spirit and the natural law. The Holy Spirit needs to reach every corner of the body, and Cusa compares the blood to the vehicle of the soul. Thus he wrote:

The more immediately accessible seat of the soul is in the purest blood contained at the center of the heart. With the blood the vital spirits provide a flow of nourishment through all the arteries of the whole body. As

⁵³ Marsilius of Padua, *The Defender of the Peace*, trans. Brett, p. 26; Marsilius of Padua, *Defensor pacis* I.v.7, p. 17: “Ad moderandos autem excessus actuum qui sunt a virtutibus motivis secundum locum per cognitionem et appetitum, quos transeuntes diximus, et qui possibiles sunt fieri ad commodum vel incommodum seu iniuriam alterius a faciente pro statu praesentis saeculi, statuta fuit necessario in civitate pars aliqua seu officium, per quam excessus talium actuum corrigantur, et ad aequalitatem aut proportionem debitam reducantur, aliter namque causaretur ex hiis pugna et inde civium separatio, demum civitatis corruptio et vitae sufficientis privation.”

⁵⁴ Marsilius of Padua, *The Defender of the Peace*, trans. Brett, pp. 27–29.

therefore those arteries go everywhere in the whole body branching out from one source so that the life-giving spirit flows through them, so the divine laws circulate with equal power throughout the whole body of the church, holding all its members in a sweet vital constraint.⁵⁵

Similarly, Cusa compared “the veins that start from the liver and spread through the whole body” to canon law. Indeed, the liver corresponds to a council, the legislative organ in the Church.

Cusa’s notion of a “blood system” in the Church was probably modeled on Galen’s theory. Galen believed that blood was used up at the end of the body, never to return to the heart. The Galenic model of the blood system explains that two types of blood—the venous and the arterial—are conveyed through various pathways connected to the two chief organs—the liver and the heart. These organs provide nutrition and vitality respectively. The venous blood originates in the liver, which provides nutrition for the blood, while the arterial blood originates in the heart, which provides *pneuma* (spirituous air) to the blood.⁵⁶ Just as the blood created by the liver is provided with *pneuma* by the heart and conveyed to all the members of the body, so, Cusa argued, canon law created by councils inspired by the Holy Spirit is conveyed to every corner of the Church. Clearly, Cusa’s metaphor of the blood system parallels Galen’s anatomical physiology.

In the light of Cusa’s reference to anatomical (and physiological) knowledge, it is evident that Marsilius’ metaphorical vision of co-operation between parts of the body politic clearly lacks reference to any physical aspects of the human or animal body. Cusa’s anatomical and physiological discussion of the body politic highlights the ecclesiastical and imperial governing systems and pays scant attention to the parts that contribute to the economic foundations of the community, a point that neither John of Salisbury nor Marsilius overlooked. But whereas John compared the peasantry to the “feet,” Marsilius did

⁵⁵ Nicholas of Cusa, *De concordantia catholica*, ed. Gerhard Kallen (Hamburg, 1959), III, xil, p. 469, note 585: “Ipsa quidem proximior et convenientior animae sedes est in ipso purissimo sanguine in cordis centro contento, a quodam quidem sanguine per omnes arterias totius corporis rectificationis fluxum vitales spiritus capiunt. Sicut igitur ipsae arteriae se per totum corpus undique per ramos transfundunt ex uno principio, ut per medium ipsarum vitalis spiritus fluat, sic divinae sanctiones totum ecclesiae corpus etiam aequae potenter circumeunt dulci vitalique strictura ambientes omnia membra.”

⁵⁶ Roy Porter, *The Greatest Benefit to Mankind: A Medical History of Humanity* (New York, 1997), p. 211.

not use any bodily metaphors. The Marsilian imagery of co-operation within a body politic, therefore, is not metaphorically structured by the anatomical understanding of the body natural.

WAR AND STRIFE AS DISEASE: THE PHYSIOLOGY AND PATHOLOGY OF THE BODY POLITIC

However, an entirely different picture emerges when we turn to Najemy's second model: that is, the image of an "unbounded" vulnerable body that is composed of contrary elements. Marsilius made use of this imagery in Chapter 5 of Discourse I—the same part of the *Defensor pacis* that we have discussed, where he explained the functional parts of the body politic. We now need to look at the text with fresh eyes.

Now of human actions and their receptions, some are the result of natural causes without our knowledge: such as come about through the conflicting nature of the elements that make up our bodies, because they are mingled together. We can appropriately set down the actions of the nutritive part as being of this sort. Under this heading also belong actions produced by the elements which surround our body, through an alteration in their qualities. Of this kind too are alterations brought about by things entering human bodies, such as foods, drinks, medicines, poisons and the like.⁵⁷

Cary Nederman has noted that the discussion of functional differentiation "derives from human physiology," but he did not elaborate on this point.⁵⁸ Attention must be devoted to Marsilius' use of the term *the elements*: he singled out some human "actions and receptions" which are affected by (in Gewirth's translation) "the contrariety of the elements composing our bodies, through their intermixture."⁵⁹ In Discourse III, Marsilius described "prince and subject" as the "primary elements of any civil order."⁶⁰ The idea of elements and of elemental qualities in mixture was not only a central issue in medieval philosophy but also a concern with which physicians have engaged since

⁵⁷ See above note 50.

⁵⁸ Cary J. Nederman, *Community and Consent: The Secular Political Theory of Marsilio of Padua's Defensor Pacis* (Lanham, MD, 1995), p. 54.

⁵⁹ Marsilius of Padua, *The Defender of Peace*, trans. Alan Gewirth (New York, 1956), p. 16.

⁶⁰ Marsilius of Padua, *The Defender of the Peace*, trans. Brett, p. 557.

antiquity.⁶¹ Everything in this world consists of the four elements: earth, air, fire, and water. But these “elements” derive from four primary qualities: hot, cold, wet, and dry.⁶² Thus earth, air, fire, and water are the combination of dryness and cold, moisture and heat, dryness and heat, and moisture and cold respectively.

The notion of “elements” was one of the key concepts in scholastic medicine. In the Aristotelian and Galenic tradition, the human body was considered to be a mixture of the elements, not of humors. The term “humoral physiology/pathology,” which is often used to frame medieval medicine, is not particularly useful because the humoral understanding of health and disease is characteristic of popular and vernacular (as opposed to scholastic) medicine that survived throughout the Middle Ages.⁶³ Scholastic medical scientists agreed that the quality that results from the way in which the elements are mixed determines the physiological and pathological state of the human body; in this scheme, humors play no significant role. Hence scholastic physiology and pathology are more aptly described as “qualitative” than as “humoral.”

At the heart of scholastic medicine was complexion theory (*complexio*). Complexion is, according to Taddeo Alderotti, “the quality which arises out of the mutual reaction of the qualities of the elements.”⁶⁴ Similarly, Peter of Abano wrote: “complexion is the quality arising from reciprocal actions and receptions of contrary qualities mixed with each other in bodies.”⁶⁵ The common ground of the definition is “the balance of the qualities of hot, wet, cold, and dry resulting from the mixture of the elements in the human body.”⁶⁶ Complexion was a fundamental concept in medieval medicine because it provided “a system of explanation providing the rational link between disease and therapy.”⁶⁷ An individual is healthy when the balance of complexion

⁶¹ Siraisi, *Taddeo Alderotti and His Pupils*, p. 156.

⁶² Per-Gunnar Ottosson, *Scholastic Medicine and Philosophy: A Study of Commentaries on Galen's Tegni, ca. 1300–1450* (Uppsala, 1982), p. 88.

⁶³ Ottosson, *Scholastic Medicine and Philosophy*, p. 86. Also Danielle Jacquart, “Medical Scholasticism,” in *Western Medical Thought*, ed. Grmek, pp. 197–240, at p. 212.

⁶⁴ Ottosson, *Scholastic Medicine and Philosophy*, p. 95.

⁶⁵ Peter of Abano, *Conciliator differentiarum philosophorum et precipue medicorum* (Venice, 1504), diff. 17, f. 24r: “Complexio est qualitas veniens ex reciproca actione et passione qualitateum contrariarum in corporibus sibi permixtis.”

⁶⁶ Siraisi, *Medieval and Early Renaissance Medicine*, p. 101.

⁶⁷ Siraisi, *Medieval and Early Renaissance Medicine*, p. 102.

is maintained, while sickness occurs when the balance is upset. The physician's role was therefore twofold: to maintain health by directing the patient's diet, exercise, rest, environmental conditions, and psychological wellbeing, and, when sickness strikes, to restore the natural balance of complexion by prescribing medications.

Marsilius writes that the main purpose of government (*pars principans*) is "to moderate the excesses of men's transient acts" by "reducing them to equality or due proportion." Here complexion theory is metaphorically structuring the idea of the purpose of government. At the heart of complexional physiology is the idea of "resistances." According to Roger French, scholastic medical scientists inquired into the mechanism of mutual reactions or "resistances" between elements and between various organs. One of Taddeo Alderotti's pupils, Gentile da Foligno, for instance, inquired: how do opposite qualities nullify each other? What was the nature of the battle, for example, between the heat of the heart and the cold of the brain?⁶⁸ Ideally, "resistances" between elements will maintain complexional balance; however, if the complexion is disordered, it needs to be restored. The medieval concept of treatment was to "prescribe medication in which the qualities were matched inversely to the patient's disordered complexion,"⁶⁹ or "temper/temperament" (*temperamentum*), which is, as Brett notes, "a key Marsilian term, the antidote to harmful *excessus* of all kinds" derived primarily from "medical literature."⁷⁰ The idea of medicinal therapeutics centered upon the notion of moderating or "tempering" the excess of qualities in order to restore balance. Applying the medical metaphor of complexion to civil society, Marsilius understood individuals' transient acts within the framework of elemental actions and receptions which might upset the balance of complexion. Thus the Marsilian theory of government revolves around the medical question of "resistances" and "tempering" complexional balance: the role of government is to "temper" the transient acts of opposite qualities in order to let them nullify each other and to intervene by coercive power where this fails. Marsilian government was created precisely for this. Marsilius' discussion of the role of government is evidently anchored in complexion theory. An important implication of this is

⁶⁸ Roger French, *Canonical Medicine: Gentile da Foligno and Scholasticism* (Leiden, 2001), pp. 95–96.

⁶⁹ Siraisi, *Medieval and Early Renaissance Medicine*, p. 102.

⁷⁰ Marsilius of Padua, *The Defender of the Peace*, trans. Brett, p. 24, note 7.

the departure from Aristotle's political philosophy: instead of reasserting the Aristotelian direction towards moral perfection, Marsilius reduced the function of government primarily to the "regulation of disputes through law."⁷¹ The role of the Marsilian ruler is essentially corrective, not educational.⁷²

Once we recognize that Marsilius' discussion was framed by the metaphor of physiology, it becomes apparent that his vocabulary was medical. We have already seen that he used such medical terms as *elements* and *qualities* and *temper/temperament*. To this list can we add *transient/transitive* and *immanent* acts, about which Marsilius wrote:

There are other actions and receptions, however, which come from us or occur within us as a result of our cognitive and appetitive powers. Some of these are called "immanent," i.e., because they do not cross over into a subject different from the agent nor are they performed by means of an external organ or limb moved in respect of place. Such are the thoughts and desires or inclinations of men. Whereas others are and are called "transitive," because in one or other of the said ways they are in contrast with those just mentioned.⁷³

As far as I can determine, there is no instance in which a scholastic theologian used the twin concepts in the way in which Marsilius did. Gewirth compared Marsilius' terminology to Thomas Aquinas' distinction between *actus manentes* and *transeuntes* and concluded that Marsilius' distinction differed from Aquinas's, since the latter is identical with Aristotle's distinction between action and production.⁷⁴ The distinction that theologians commonly used is between external and internal acts. When Bonaventure discussed Christ's apparent imperfect actions, such as his escape from persecutors, he introduced a distinction between exterior acts (*opus exterius*), what an individual has done, and interior acts (*opus interius*), what an individual is about to do, thereby arguing that Christ was perfect in interior acts but was

⁷¹ Antony Black, *Guilds and Civil Society in European Political Thought from the Twelfth Century to the Present* (London, 1984), p. 90.

⁷² Alan Gewirth, *Marsilius of Padua and Medieval Political Philosophy* (New York, 1951), p. 106. Marsilius' idea of the role of government resembles William of Ockham's view. See A.S. McGrade, *The Political Thought of William of Ockham: Personal and Institutional Principles* (Cambridge, 1974), pp. 113–16; and Takashi Shogimen, *Ockham and Political Discourse in the Late Middle Ages* (Cambridge, 2007), ch. 6.

⁷³ Marsilius of Padua, *The Defender of the Peace*, trans. Brett, p. 25.

⁷⁴ Gewirth, *Marsilius of Padua and Medieval Political Philosophy*, p. 61, note 56.

not always perfect in exterior acts.⁷⁵ In a similar fashion, William of Ockham wrote of the “external” and “internal” perfection of Christ and his apostles.⁷⁶ The fact that Marsilius did not use such terminology is not insignificant when we consider that the term *transient* appears frequently in medical writings. When William of Brescia discussed the therapeutic means for physicians, he wrote that it is twofold: *intransiens* and *transiens*. The “intransient” means refers to the understanding and knowledge of medicine, while the “transient” refers to such “actions” as healing and curing.⁷⁷ Likewise, Peter of Abano made a distinction between *operatio transiens* and those that remain within the agent, such as understanding and wanting.⁷⁸ It is clear that Marsilius discussed human acts in a civil community by metaphorical reference to medical vocabulary.

Taken together, it is evident that Marsilius’ discussion of functional diversity revolves around a conceptual metaphor: “The operation of diverse functions in a body politic is the complexion of the elements in the body natural.” The physiological framing of political discourse, however, is not unique to Marsilius. His contemporary, the physician Turisanus, for example, looked at the interface between society and the human body: his commentary on Galen’s *Tegni* drew on Aristotle’s idea of social justice to explain the concept of complexion. The point that Turisanus wanted to make was that there is no single definition of good complexion—there are a number of different complexions that are equally good. To highlight this, he cited Aristotle’s definition of justice as due proportion and wrote that honor is distributed among citizens according to their worth. Honor may be attributed to some due to their virtue, to others on account of their wealth, and to some others because of their noble birth. Turisanus asserts that such a distribution is just because of due proportion.⁷⁹ While Turisanus’ view was the same as Marsilius’ in the sense that both men evoked complexion

⁷⁵ Bonaventure, *Apologia pauperum*, c. i, 10, in *Opera omnia*, vol. 8 (Quaracchi, 1898), p. 238.

⁷⁶ William of Ockham, *Opus nonaginta dierum*, c. 21, in *Guillelmi de Ockham Opera Politica*, ed. H.S. Offler, vol. 2. (Manchester, 1963), p. 467. Cf. *Opus nonaginta dierum*, c. 23, p. 469.

⁷⁷ Marangon, “Marsilio tra preumanesimo e cultura delle arti ricerca sulle fonti padovane del I discorso del ‘Defensor pacis,’” p. 395, note 81.

⁷⁸ Peter of Abano, *Conciliator*, diff. 88, fol. 132r.

⁷⁹ Turisanus, *Plusquam commentum in microtegni Galeni* (Venice, 1504), fol. 12v. Cf. Siraisi, *Taddeo Alderotti*, pp. 75–76.

theory to explain social phenomena, their use of the metaphor differed considerably.

Some political thinkers drew on the metaphor of physiology in their political arguments, and here too the way in which it was deployed was diverse. But there are two different patterns in the physiological or pathological metaphor: one follows scholastic “qualitative” physiology and the other employs the popular “humoral” one. In his commentary on Aristotle’s *Politics*, Nicole Oresme deployed the metaphor of “qualitative” physiology. In response to Aristotle’s desire that the city be a place where every individual citizen can practice virtue, Oresme was manifestly skeptical of the possibility that citizens can ever become virtuous. In this context, he draws on the metaphor of complexion theory: “It is not possible that the human body becomes so perfectly healthy that its complexion becomes what physicians call ‘temperament in relation to justice.’ . . . the body would be inclined to approach such complexion and health according to what is expedient to the body and to what is possible for it.”⁸⁰

The metaphor of “qualitative” physiology was less widely employed than the non-academic metaphor of humoral physiology. Oresme used both types of metaphor: he appealed to humoral physiology in his treatise on the economy, *De moneta*, in which he described tyranny as the excessive inflow of humors into the head.⁸¹

As . . . the body is disordered when the humours flow too much freely into one member of it, so that that member is often thus inflamed and overgrown while the others are withered and shrunken and the body’s due proportions are destroyed and its life shortened; so also is a commonwealth or a kingdom when riches are unduly attracted by one part of it.⁸²

Philippe de Mezières explained that good government requires four virtues—norm, chivalrous discipline, obedience, and justice—which correspond to the four humors. The corruption of any of the four virtues would result in political corruption, just as the loss of the humoral balance can generate seven types of illnesses.⁸³ Similarly, Nicholas of

⁸⁰ Nicole Oresme, *Le Livre de Politiques d’Aristote*, ed. Albert Douglas Menut, *Transactions of American Philosophical Society* 60 (1970), p. 322.

⁸¹ Nicole Oresme, *De moneta*, ed. Charles Johnson (London, 1956), pp. 42–46.

⁸² Oresme, *De moneta*, ed. Johnson, p. 42.

⁸³ Jean-Louis Picherit, *La métaphore pathologique et thérapeutique à la fin du Moyen Age* (Tübingen, 1994), pp. 40–41. The metaphor of humoral physiology survived

Cusa discussed the role of the emperor using the metaphor of humoral physiology:

So like an expert doctor the emperor's concern should be to keep the body well so that the life-giving spirit dwells in it properly because it is well-proportioned. For when he sees any one of the four complexions in excess or deficient from the mean and the body therefore unbalanced, whether because the melancholy which is abundant avarice has produced various diseases in the body—usury, fraud, deceit, theft, pillage, and all those ways in which great wealth is acquired without labour through some deceptive artifice—which cannot take place without harming the commonwealth—or if he sees the body grow feverish because of choleric wars, dissension and division, or swell up with sanguine pomposity, luxury, banqueting and the like, or become morose because of a temperament which is phlegmatic concerning virtuous efforts both to gain a livelihood and to protect the fatherland, he should seek a remedy and listen to the books and advice of the most learned doctors of the commonwealth in earlier times.⁸⁴

Here Cusa is using the term *complexion*; however, his classification of diseased states relies on the classic scheme of the four humors: blood, bile, black bile, and phlegm.⁸⁵

In the early fourteenth century, academically sophisticated physicians discussed physiology in terms of elements, not humors. Marsilius' metaphor clearly evidences his familiarity with scholastic physiology. But not only that; his discussion of the role of government was also modeled on complexion theory. As far as I can determine, instances

beyond the Middle Ages; for example, Machiavelli used the term humor(s) (*umore/umori*) in his political writings, evoking physiological imageries. See Anthony Parel, *The Machiavellian Cosmos* (New Haven, 1992).

⁸⁴ Nicholas of Cusa, *The Catholic Concordance*, pp. 320–21; *De concordantia catholica*, III, xil, p. 472, note 593: "Sit itaque cura imperatoris, ut recte ad instar experti medici corpus in sanitate servet, ut vitalis spiritus recte per proportionabile medium sibi iungi possit. Nam dum viderit aliquem ex quattuor complexionibus excedere a temperamento vel deficere et propterea corpus disgrasiatum, vel propter abundantem avaritiosam melancholiam, quae pestes in corpus seminavit varias, usuram, fraudes, deceptiones, furta rapinas et omnes eas artes, quibus absque labore cum quadam caliditate deceptorie divitiae magnae acquiruntur, quod absque laesione rei publicae fieri nequit, vel si ex colericis guerris, discissionibus et divisionibus aut sanguineis pompositatibus, luxuriis, comensationibus et similibus, aut phlegmaticis acediositatibus in cunctis virtuosis et lucrandi victus causa et ob patriae tutelam laboribus corpus torpescere, febrescere, tumescere vel exinaniri, quaerat medelam et audiat libros et consilia peritissimorum quondam rei publicae medicorum."

⁸⁵ On the idea of melancholy in the cited passage, see Raymond Klibansky, Erwin Panofsky, and Fritz Saxl, *Saturn and Melancholy: Studies in the History of Natural Philosophy, Religion and Art* (London, 1964), pp. 119–20.

of the metaphorical “mapping” between physiology and political theory are found only in the period after 1300: Oresme, Mezières, and Cusa belong to Marsilius’ posterity. The interface between medical and political languages was probably a product of the revival of medical learning at the turn of the thirteenth and fourteenth centuries. Marsilius was indeed one of the earliest who framed politics using the metaphor of physiology.

THE HEART AS THE COMMANDING ORGAN: THE PHYSIOLOGY OF
THE BODY POLITIC⁸⁶

While Marsilius presented a vision of “conflicting elements” within a civil community, he also asserted the need for a principal part that governs the other parts. In this context, he examined the body politic once again in the light of the animal body: “The city and its parts, established in accordance with reason, are analogous to an animal and its parts perfectly formed in accordance with nature.”⁸⁷ Referring to Aristotle’s *De partibus animalibus* (*On the Parts of Animals*) and Galen’s *De foetuum formatione* (*On the Formation of the Foetus*), he maintained that “a particular organic part of the animal is formed first in time and in nature, and within it a natural virtue or potential together with a certain heat as its active principle.” For Marsilius, power and heat play a causative role in forming and differentiating the various parts of the animal. The bodily part that is formed first is, according to Aristotle and “others of the more expert of the philosophers,”⁸⁸ “the heart or something analogous to the heart” and is “more noble and more perfect in its qualities and characteristics than the other parts of the animal.”⁸⁹ Marsilius compared the heart to government or principate (*principatus*). One part “which is analogous to the heart,” namely, civil government, is formed from “the soul of the universal body of the citizens or its prevailing part,” in which consists “a certain virtue or

⁸⁶ A fuller discussion of this section can be found in my “‘Head or Heart?’ Revisited: Physiology and Political Thought in the Thirteenth and Fourteenth Centuries,” *History of Political Thought* 28 (2007), 208–29.

⁸⁷ Marsilius of Padua, *The Defender of the Peace*, trans. Brett, p. 90.

⁸⁸ Annabel Brett notes that Marsilius’ discussion of the embryo resembles the view of his contemporary Paduan medical scientist Dino del Garbo. See Marsilius of Padua, *The Defender of the Peace*, trans. Brett, p. 91, note 6.

⁸⁹ Marsilius of Padua, *The Defender of the Peace*, trans. Brett, p. 91.

form with the active potential or authority” to establish the remaining parts of the political community. Government’s “virtue or form” is the law and its “active potential or authority” is the authority to judge and command advantageous or just sentences in civil terms.⁹⁰ Thus “the authority of principate granted to a particular man is analogous to the heat of the heart.”⁹¹

The comparison between the heart and the government implies that the Church was not the ruling part of the civil community. Marsilius famously rejected the view that the Church was a rival institution of civil government. He maintained that the Church was a part of the civil community along with other sectors including agricultural, military, and commercial parts. Marsilius’ view of the Church’s *raison d’être* is markedly utilitarian.⁹² The religious part is necessary if citizens are to “live well” in this world as well as in the next; it induces virtuous behavior, which makes the sufficiency of civil life more readily fulfilled and ensures that citizens will be better disposed to the otherworldly life.⁹³ Thus he highlighted the utility of religion for the moral foundations of civic life. The coercive authority to judge, command, and execute sentences, however, was monopolized by civil government. Marsilius’ conceptual metaphor—the government of the body politic is the heart of the body natural—therefore suggests that the civil government is the only ultimate authority in a civic community.

The Marsilian metaphor of the heart as the principal organ was manifestly not traditional. John of Salisbury, for example, compared the head, not the heart, to a prince, who is “subject only to God and to those who act in His place on earth.”⁹⁴ The “heart” was compared to the senate, “the office of counsel and rulership,” which only assists the ruling office of the prince.⁹⁵ It was in the head that all the representatives of the political community resided: the “eyes,” the “ears,” and the “tongue” were compared to the judges and the head’s representatives to the provinces. The superior function was attributed to the head, namely, the prince, only to be supported by the heart, which is the senate of the commonwealth.

⁹⁰ Marsilius of Padua, *The Defender of the Peace*, trans. Brett, p. 92.

⁹¹ Marsilius of Padua, *The Defender of the Peace*, trans. Brett, p. 93.

⁹² Janet Coleman, *A History of Political Thought from the Middle Ages to the Renaissance* (Oxford, 2000), p. 148.

⁹³ Marsilius of Padua, *Defensor pacis* I.vi.9.

⁹⁴ John of Salisbury, *Policraticus*, ed. Nederman, V.ii.67.

⁹⁵ John of Salisbury, *Policraticus*, ed. Nederman, V.9.81.

The metaphor of the head did not begin with John of Salisbury; it has a long history. It can be found in the Bible. The Church has conventionally been considered to be a body of which Christ is the head. The Pauline letters often used the metaphor of the body as the Church, for instance, in Romans 12:4–5 and Ephesians 5:23.⁹⁶ Accordingly, the imagery of Christ as the head of the body (namely, the Church) is pervasive in medieval ecclesiology.⁹⁷ The notion of Christ's headship persisted throughout the thirteenth and fourteenth centuries and beyond: John Wycliffe, for example, used this argument to assert the headship of Christ alone, thereby rejecting the primacy of the pope. The conciliarists Pierre d'Ailly and Jean Gerson inherited the idea of Christ as the head of the Church. Further, the head was widely considered to be the most symbolic part of the body in the Middle Ages. It was a popular belief that the head is placed above the rest of the body because it rules the body. The head was also believed to be significant as the locus of the human soul.⁹⁸ Coupled with these biblical and rhetorical traditions, it is clear that the head was conventionally considered to be the most significant part of the body.

While Marsilius' attribution of primacy to the heart is evidently untraditional, it was not unprecedented. When Thomas Aquinas inquired into the headship of Christ in the Church, for instance, he discussed the view that Christ should be compared to the heart, not the head. The Dominican theologian acknowledged Aristotle's view in *De animalibus* that the heart is the principle of senses, motions, and life, from which it could be inferred analogically that Christ should be compared to the heart because he is not dependent on any members of the Church. Against this, Aquinas explains his own position: "The heart is a hidden member, whilst the head is an apparent one. The heart can signify the divinity of Christ or the Holy Spirit, whilst

⁹⁶ Romans 12:4–5: "For as in one body we have many members, and not all the members have the same function, so we, who are many, are one body in Christ, and individually we are members one of another"; Ephesians 5:23: "For the husband is the head of the wife just as Christ is the head of the church, the body of which is the Savior."

⁹⁷ It has been debated, however, whether Christ was the head (*caput*) due to his divinity or to his humanity. See Yves Congar, *L'ecclésiologie du haut Moyen-Age* (Paris, 1968), p. 83.

⁹⁸ David Williams, *Deformed Discourse: The Function of the Monster in Medieval Thought and Literature* (Exeter, 1996), pp. 126–27. See also Debra Higgs Strickland, *Saracens, Demons, and Jews: Making Monsters in Medieval Art* (Princeton, 2003), pp. 47–48.

the head can signify Christ himself according to his visible nature, whose invisible nature of divinity flows in.”⁹⁹ Elsewhere Aquinas inquired whether Christ was the head of the Church in terms of his humanity, and argued affirmatively. In this context, he again referred to the Aristotelian position that the heart was the “origin of living forces” and “the primary origin of all the members.” But Aquinas wrote that the head is “the origin of the forces of animals that pertain to sense and movement.” He did not think that Christ was “the origin of the members of the Church in terms of being natural, that is, being a human, but in terms of faith and love, by which the members of the Church are unified.”¹⁰⁰ Interestingly, Aquinas did not flatly reject or dismiss the Aristotelian primacy of the heart. He clearly acknowledged its limited validity.¹⁰¹

The early fourteenth-century Austin theologian and papalist writer Augustinus Triumphus was also aware of the Aristotelian objection to the primacy of the head. To the question of whether the pope is the head of the Church, Augustinus answered affirmatively and hastened to add that “in metaphorical locutions, it is not inconvenient that one and the same are referred to by various names according to various similarities. The pope therefore is the head of the Church according to [a certain] likeness... However, he can be referred to as the heart due to other conditions.” Augustinus made reference to Aristotle’s *De animalibus* and concluded thus: “Although Christ could be compared primarily with the heart, and the pope could be compared with it as an instrument, which invisibly vitalizes the Church, Christ is compared with the head according to the visible nature, by which a man is superior to other.”¹⁰² Like Aquinas, Augustinus acknowledged some validity to the metaphorical discussion based on the Aristotelian view of the heart.

The traditional supremacy of the head was not supported by all theologians, however. The Austin friar Giles of Rome’s (1243/47–1316) magnum opus, *De regimine principum* (*On Princely Government*), for example, elaborates his view of political leadership and government

⁹⁹ Thomas Aquinas, *Quaestiones disputatae de veritate*, q. 29, a. 4, in *Opera omnia* 22 (Rome, 1973), p. 860.

¹⁰⁰ Thomas Aquinas, *Commento alle Sentenze di Pietro Lombardo*, 10 vols (Bologna, 1999–2001), Book 3, dist. 1–22, p. 682.

¹⁰¹ Thomas Aquinas, *De regimine principum ad Regem Cypris* (Turin, 1924), p. 2.

¹⁰² Augustinus Triumphus, *Summa de ecclesiastica potestate* (Rome, 1584), q. 19, a. 2, p. 118.

by reference to bodily metaphors including the primacy of the heart.¹⁰³ According to Giles, the civil community was comparable to the human body. The body consists of diverse functions and movements of various members, which are regulated in a twofold way: one is reciprocal justice (*iustitia commutativa*) and the other is distributive justice (*iustitia distributiva*). The bodily members regulate one another to maintain order, which is the state of reciprocal justice. When one member is affluent in one thing but may be deficient in others, another member will provide, and vice versa. Thus both deficiency and excess of each and every member will be reduced to the point of equilibrium. For example, feet can walk but do not move without direction from the head. The head can give commands to bodily members but cannot walk by itself. Thus feet and head are mutually dependent. Likewise, the civil community has members with diverse functions who support each other to achieve a collectively sufficient life. In a civil community, an affluent member supports another in need; mutual help realizes reciprocal justice. However, all the members must be ordered by an organ, the heart, which is the fount of life and motions, and this is called the state of distributive justice.¹⁰⁴

A body natural cannot be sustained unless the heart infuses [the vital spirit] appropriately into members thereby maintaining its distributive justice. Likewise, a kingdom or a civic community cannot be maintained unless a king or a prince distributes honors and goods appropriately thereby maintaining distributive justice in it.¹⁰⁵

Mutually dependent bodily members are regulated by the principal organ: the heart.¹⁰⁶

Giles of Rome is also widely known for his pro-papal treatise *De ecclesiastica potestate*, which inspired Pope Boniface VIII's *Unam Sanctam*, a document that pronounced the universal jurisdiction of the pope. The anonymous political treatise *Rex pacificus* presented a

¹⁰³ Struve, *Die Entwicklung der organologischen Staatsauffassung im Mittelalter*, p. 185.

¹⁰⁴ Giles of Rome, *De regimine principum* (Venice, 1502), I.ii.11. Also Struve, *Die Entwicklung der organologischen Staatsauffassung im Mittelalter*, pp. 184–85.

¹⁰⁵ Giles of Rome, *De regimine principum*, I.ii.11.

¹⁰⁶ However, Giles of Rome's "organic" understanding of the body politic was eclectic. He also described kings and princes as the head of a kingdom (*caput regni*). Tilman Struve ascribed this to Giles's Platonic view that the human is a microcosm of the universe (Struve, *Die Entwicklung der organologischen Staatsauffassung im Mittelalter*, pp. 186–94).

diametrically opposed view of papal jurisdiction in spiritual and temporal matters.¹⁰⁷ The work, which responded to the political conflict between Pope Boniface VIII and Philip the Fair, frames its political view in a dualist cosmology. The universe entails a twofold nature: one is spiritual and angelic; the other is corporeal and earthly. The author argues that the human being is the microcosm of the world; therefore, he also entails a dual nature: spiritual and corporeal. The human body has two principal organs: heart and head. "The heart and the head have distinct functions, just as in the worldly government there are distinct jurisdictions: *spiritual* represented by the head and *temporal* represented by the heart."¹⁰⁸ The vital importance of the organs is demonstrated by the fact that the lack of either the head or the heart would result in death. The author compares the head to the pope, who teaches orthodox doctrine to the members of the body, the community of the faithful. The nerves stem from the head, which forms a system comparable to the ecclesiastical hierarchy and binds all members to one another and to the one head, Christ, who is represented by the pope, thereby constituting unity.

The heart, in contrast, is compared to the prince who exercises temporal jurisdiction. From the heart the veins spread to distribute blood to the whole body. Citing Isidore of Seville and Aristotle, the author argues that the heart is the most important organ, "without which there is no life." Various demonstrations of the superiority of the heart follow. First, the author maintains that the heart is the first (before the head) to emerge in the fetus. Second, the author compares the laws and statutes to the blood, which is pumped out by the heart. Just as the body natural cannot sustain itself without the blood being distributed to its every corner, so the commonwealth cannot be sustained without laws. Thus the author concludes:

From what has been said, therefore, it is clear that, just as there are two principal parts in the human body, the head and the heart, which have

¹⁰⁷ *Rex pacificus* (*Quaestio de potestate papae*) was first published in the *Acta inter Bonifacium VIII, Benedictum XI, Clementem V, et Philippum Pulchrum* (s. l. 1614), pp. 49–93. I used César Egasse du Boulay's edition in *Historia universitatis parisiensis*, 6 vols (1665–73), which, however, does not print the entire text. Paul Saenger argues that the principal author is John of Paris. The authorship was suppressed since the work was designed to be a collective response of the University of Paris to Philip the Fair ("John of Paris, Principal Author of the *Quaestio de potestate papae* (*Rex pacificus*)," *Speculum* 56 [1981], 41–55).

¹⁰⁸ *Rex pacificus*, in *Historia universitatis parisiensis*, ed. du Boulay, p. 941.

distinct functions respectively and do not interfere with each other, so there are in the universe two separate jurisdictions, the spiritual and the temporal, which have distinct functions.¹⁰⁹

This conclusion resembles John of Paris's clear-cut dualism.¹¹⁰ Thus, the primacy of the head had been established as a conventional metaphor by the time Marsilius deployed it.

The metaphorical language, however, entailed a medical experiential basis. Which is the supreme organ in the human body—the head or the heart? Discussion of this question goes back to antiquity. The primacy of the head was already asserted in Plato's *Timaeus*. Plato suggested that the brain was the center of the sensory and motion system. He described the head as “the most divine part of us and lord over all the rest”;¹¹¹ the other members were made by “the god's offspring” only because the head alone would have to roll on the earth's uneven surface, which is obviously inconvenient.¹¹² For Plato, the heart is “the knot of the veins and the fountain of the blood which moves impetuously round throughout all the members,” comparable to “the guard-room.” The lower standing of guardians in Plato's republic underlines his view that the heart was a less important organ.¹¹³

Aristotle, by contrast, asserted the superiority of the heart. He considered that a common *sensorium* which an animal requires is anatomically identified with the heart because the blood vessels spread from the heart to all the members of the body. Special importance was ascribed to the heart on the grounds that it is the first organ to form in the fetus. The heart is also believed to be the hottest part of the body to provide the body with vital heat. The heat generated by the heart was considered to play an important role in the making of the fetus as well as in the production of *pneuma* that flows throughout the body.¹¹⁴ Aristotle maintained that the brain is the coolest part of

¹⁰⁹ *Rex pacificus*, p. 941.

¹¹⁰ *Sominium viridarii* probably copied the view in *Rex pacificus*. *Sominium viridarii*, in ed. Melchior Goldast, in *Monarchia Sancti Romani Imperii*, ed. Melchior Goldast, 3 vols (Hanover, 1611–14), vol. 1, I, c. 37, pp. 70–71; c. 44, p. 73; II, c. 102, p. 164. Also Jeannine Quillet, *La philosophie politique du Songe du Vergier* (1378): *Sources doctrinales* (Paris, 1977), p. 47.

¹¹¹ Plato, *Timaeus*, in Francis MacDonald Cornford, *Plato's Cosmology: The Timaeus of Plato translated with a running commentary* (London, 1937), p. 150.

¹¹² A.E. Taylor, *A Commentary on Plato's Timaeus* (Oxford, 1928), p. 275.

¹¹³ Cornfield, *Plato's Cosmology*, p. 282.

¹¹⁴ Julius Rocca, *Galen on the Brain: Anatomical Knowledge and Physiological Speculation in the Second Century A.D.* (Leiden, 2003), pp. 28–30.

the body because it does not contain blood. The brain only serves to regulate the body temperature by cooling the heart and the blood. Clearly, Aristotle attributed a less significant function to the brain, thereby claiming the superiority of the heart.

Medieval medical learning also found an authoritative opinion in Galen, a physician from Pergamum, who argued, in contrast to both Plato and Aristotle, that there are three principal members in the body: heart, brain, and liver (with the testicles being the fourth important organ). According to Galen, three bodily systems were built around the three principal organs: the nervous system stems from the brain; the arteries originate in the heart; and the veins come from the liver. Thus, the brain and the spinal cord, which form the nervous system, control sense and motion, while the arteries and veins, which were not distinguished by Aristotle, constitute the circulatory system.¹¹⁵

The last medical authority to be mentioned is the medieval Islamic philosopher Avicenna. His response to the question of the most important organ clearly shows his awareness of the disagreement between Aristotle and Galen. Avicenna drew a distinction between the outlooks of physicians and philosophers. While he notes that many philosophers and physicians subscribe to Galen's opinion, Avicenna preferred Aristotle in a compromising manner: "Subtly demonstrated, the words of the Philosopher [Aristotle] are much nearer the truth, although the words of physicians are more manifest (*magis manifestus*) at first glance."¹¹⁶ Thus, Avicenna attributed greater importance to the Aristotelian view, although he recognized the limited (empirical, not philosophical) validity of the Galenic position.

The supremacy of the head or the heart was one of the hotly debated issues in medieval medicine. It is not difficult to enumerate supporters of the Aristotelian cardiocentric view. Taddeo Alderotti was clearly a loyal heir to the Aristotelian doctrine. Nancy Siraisi wrote that he "strongly asserted both the general primacy of the heart and its specific dominance over sense and motion."¹¹⁷ Taddeo's arguments revolved around the views of Aristotle and Avicenna by considering the heart to be the "principal member" and "first root" of the virtues, as well as

¹¹⁵ Siraisi, *Taddeo Alderotti and His Pupils*, pp. 186–87. On Galen's physiology, see especially Rocca, *Galen on the Brain*, and Rudolph E. Siegel, *Galen's System of Physiology and Medicine* (Basel, 1968).

¹¹⁶ Avicenna, *Avicennae Arabum medicorum principis* (Venice, 1608), I.1.5.1, p. 30.

¹¹⁷ Siraisi, *Taddeo Alderotti and His Pupils*, p. 192.

“the principal instrument of operation” in the human body. He was an out-and-out Aristotelian in rejecting the view that the nerves have their origin in the brain and attributed their origin to the heart.¹¹⁸

“Difference 38” in Peter of Abano’s *Conciliator* discusses whether the principal bodily members are plural. Peter’s position is somewhat eclectic; he argued that the bodily organ could be called principal in two ways: fundamentally and primarily (*radicaliter et primo*) and in appearance and secondarily (*manifestive et secundo*). Fundamentally and primarily, there is only one principal organ, which is the heart. In the heart resides both soul and intellect. Clearly, Peter subscribed to Aristotelian physiology. In appearance and secondarily, however, the principal organs include the heart, the liver, and the brain, thereby accommodating the Galenic position.¹¹⁹ This way of reconciling the two positions resembles Avicenna. The “primary” pre-eminence, however, was attributed to the heart, thereby expressing his preference for the Aristotelian position. Indeed, Peter demonstrated analogously the primacy of the heart.

For instance, he used the theological analogy of the Trinity. Just as the Trinity consists of three (God, Christ, and the Holy Spirit), so the body consists of three principal organs: the heart, the brain, and the liver. But the Trinity can be reduced to one: God. Similarly, the principal bodily organs can be reduced to one: the heart.¹²⁰ Peter’s use of a political metaphor is also illuminating: he attributed the primacy of the heart to its central location in the body and compared this to the centrality of the king in the realm.¹²¹ He also compared the heart to the fortress of a state.¹²²

The discussion of the principal organ was not confined to northern Italy. Similar metaphors can be found in the anatomical writing of Henri de Mondeville, one of the pioneers of surgery at Montpellier in the early fourteenth century, who commented on the status of head and heart in the body natural. As Marie-Christine Pouchelle has shown, Mondeville discussed society by reference to the human body;

¹¹⁸ Siraisi, *Taddeo Alderotti and His Pupils*, p. 192.

¹¹⁹ Peter of Abano, *Conciliator*, f. 56r. Jeannine Quillet referred to this in her French translation of the *Defensor pacis* to suggest that the source of the Marsilian cardiocentric view was probably Peter of Abano (*La Défenseur de la paix*, p. 134, note 18). This view is plausible; however, the cardiocentric view was not unique to Peter.

¹²⁰ Peter of Abano, *Conciliator*, f. 56v.

¹²¹ Peter of Abano, *Conciliator*, f. 56r.

¹²² Peter of Abano, *Conciliator*, f. 56r.

he discussed social order in terms of the members of the body and compared social solidarity to anatomical cohesion.¹²³

Mondeville addressed the question, "What part of the body represents the king as sovereign: the head or the heart?" Although Mondeville was aware that the king was often compared to the head, which is in spatial terms the highest position, he attributed the role of the heart to the king as the center of the body. In his view,

The heart is the principal organ par excellence...It gives to all other members of the whole body vital blood, warmth and spirit. It is...found in the center of the cavity of chest and in the centre of the entire chest as befits its role as the king in the centre of his kingdom.¹²⁴

Here Mondeville compares the centrality of the heart in the body natural to that of the king in the body politic. He, of course, did not fail to appeal to the authority of Aristotle.¹²⁵

Marsilius' metaphorical attribution of supreme authority to the government as the "heart"—not the "head"—of the body politic suggests, in view of the widespread subscription to the Aristotelian cardiocentric view in medical circles, that the metaphor was medically grounded. This centralist vision might appear somewhat inconsistent with Marsilius' other vision of functional diversity and co-operation.¹²⁶ Nonetheless, he clearly believed that the centralist and pluralistic models do not contradict each other. Marsilius elaborated the harmonious

¹²³ Marie-Christine Pouchelle, *The Body and Surgery in the Middle Ages*, trans. Rosemary Morris (Cambridge, 1990), pp. 116–23.

¹²⁴ Henri de Mondeville, *Chirurgie de Maître Henri de Mondeville*, ed. and trans. E. Nicaise (Paris, 1893), p. 60.

¹²⁵ Arnald of Villanova was also in support of the supremacy of the heart (Jacquart, "Medical Scholasticism," p. 217). Medical scientists commented not only on secular politics but also on Church government. The Genoese physician Galvano da Levanto (fl. c. 1300) serves as a case in point: in the light of Aristotelian and Galenic physiologies, Galvano explains various offices of the Church. Drawing on the Galenic model, Galvano identifies four principal organs in the Church: the pope, bishops, archbishops, and patriarchs. Yet the Aristotelian supremacy of the heart as the source of the spirit prevailed in Galvano's understanding of human physiology, which was analogically applied to the mystical body of Christ. This led him to reject the traditional biblical language; he described both Christ and the pope as the heart of the Church. He only reserved for the Roman Church the conventional depiction of the "head" of all other churches. See Joseph Ziegler, *Medicine and Religion, c. 1300: The Case of Arnald de Vilanova* (Oxford, 1998), pp. 84–85.

¹²⁶ Najemy, "The Republic's Two Bodies," pp. 245–46. Quentin Skinner questioned the compatibility between the centralized and the pluralized systems that Marsilius suggested. See his *The Foundations of Modern Political Thought*, vol. 2 (Cambridge, 1978), p. 351.

coexistence of centralism and pluralism in a civil community by, again, drawing on the metaphor of animal body:

In a composite animal the primary principle that commands and moves it (with motion in respect of place) is one, as is apparent in the book called *On the Movement of Animals*; since if there were more than one of these principles and they simultaneously commanded things that were contrary or divergent, then of necessity the animal would either be driven to contrary courses or would stay completely still, and so lack the necessities and conveniences that it acquires through motion. And it is the same in an appropriately-ordered city, which in chapter 15 of this discourse we said was analogous in nature to a well-formed animal. Therefore, just as a plurality of such principles would be redundant and indeed harmful in an animal, the same view should be firmly maintained in the case of the city.¹²⁷

Thus, the diverse functional parts must be integrated into a communal whole under the direction of the supreme ruling part.¹²⁸ This vision was probably not original to Marsilius, however, but was inspired by Peter of Abano. Peter inquired in *Conciliator* “whether a human body [i.e., a patient] should be entrusted to one physician or many,” and he compared governing a city to treating a patient. In the light of Aristotle’s *On the Movement of Animals* (the same source as in the *Defensor pacis*, although, Peter notes, it is cited from the compilation by Eustratius [c. 1060–1120], bishop of Nicaea), Peter argued that “as happens in other regimes, for example, political, so it is in the regimen of the human body.” “But in political rule,” Peter continues, “many rulers are ordered ultimately to one ruler who seeks motives and advice from all other inferiors.”¹²⁹ The supreme unity of government incorporating functional diversity was clearly manifested in Peter’s chief medical work, a possible intellectual source of the *Defensor pacis*.¹³⁰

¹²⁷ Marsilius of Padua, *The Defender of the Peace*, trans. Brett, pp. 118–19; Marsilius of Padua, *Defensor pacis* I.xvii.8, p. 93: “Adhuc, sicut in compositio animali primum praecipiens et movens ipsum, motu eo qui secundum locum, est unum, ut in eo libro qui De motibus animalium apparet, quoniam pluribus existentibus his principiis et contraria vel diversa simul praecipientibus, necesse foret animal aut in contraria ferri vel omnimodo quiescere, et hiis carere quae per motum sibi necessaria quaeruntur et commoda; sicque in civitate convenienter ordinata, quam animali bene formato secundum naturam proportionaliter habere diximus XV huius.”

¹²⁸ Nederman, *Community and Consent*, pp. 131–36.

¹²⁹ Peter of Abano, *Conciliator*, diff. 61, fol. 91v.

¹³⁰ Marsilius of Padua, *The Defender of the Peace*, trans. Brett, p. 119.

TYRANNY AS MONSTROSITY: THE TERATOLOGY OF
THE BODY POLITIC?

Before concluding this chapter, I shall touch upon the last imagery that has not been examined: the metaphor of a “deformed monster.” Marsilius invoked monstrous imagery in his attack on the “corrupted” ecclesiastical government of his time: “Through the activity that has up until now been permitted the Roman bishops, and still is, in accordance with this plenitude of power, they have infected and—if one may be allowed to say so—corrupted the entire body of Christ.”¹³¹ Marsilius continued:

But now as we proceed to speak of the form of this body (which ought to consist in the due ordering and position of its members), this very body will appear as a deformed monster to one who looks at attentively. Is there anyone who will not think that a body of an animal in which individual limbs are joined to its head with a direct connection is monstrous and useless for the tasks which are appropriate to it? For if a finger or a hand is directly connected to the head, and lacks its due position, it will lack the force, movement, and function which is appropriate to it.¹³²

For an attentive observer, it was obvious, Marsilius maintains, that the contemporary Church government, as the mystical body of Christ, is deformed monstrously.

The language of monstrosity is not uncommon in late medieval political thought.¹³³ In his discussion of papal monarchy, William of Ockham presented a view that it is beneficial for one body to have one head because a body without a head is, obviously, imperfect, being deprived of its principal member, whereas a body with two or more

¹³¹ Marsilius of Padua, *The Defender of the Peace*, trans. Brett, p. 418.

¹³² Marsilius of Padua, *The Defender of the Peace*, trans. Brett, p. 425; Marsilius of Padua, *Defensor pacis* II.xxiv.12, pp. 374–75: “Nunc autem de corporis huius forma dicturis (quae in suorum membrorum ordine ac situ debito consistere debet) hoc ipsum tamquam deforme monstrum videbitur diligenter inspectum. Quis enim animalis corpus, cuius singula membra suo capiti nexu immediate iunguntur, monstruosum et inutile ad operationes convenientes esse non extimet? Digitus namque vel manus, si capiti immediate nectatur, situ sibi debito carens, virtute, motu, et opere convenienti carebit.”

¹³³ The language of monstrosity was very popular in early modern political writings. The famous polemical work by John Knox, for example, is entitled *The First Blast of the Trumpet against the Monstrous Regiment of Women*. On the rhetoric of monstrosity, see for example, Kathryn M. Brammall, “Monstrous Metamorphosis: Nature, Morality, and the Rhetoric of Monstrosity in Tudor England,” *Sixteenth Century Journal* 27 (1996), 3–21.

heads seems monstrous.¹³⁴ We have already seen that Nicole Oresme described tyranny as a monster with a swollen head due to excessive inflow of humors. I have explained that the head was considered to be the most symbolic part of the body in the Middle Ages, since it was believed that the head is placed above the rest of the body because it rules the body; the head was also believed to be significant as the locus of the human soul.¹³⁵ It is not surprising that the deformation of the head is most often associated with monstrosity.

Monsters captured the imagination of encyclopedists, cartographers, sculptors, and poets among others in the Middle Ages. Marsilius' vision of monstrosity, however, is quite unusual in the light of various deformities known in his times. The common deformity is the lack of or multiplication of arms.¹³⁶ Blemmyae has no head and Sciopod has only one leg with an enormous foot.¹³⁷ But the mislocation of arms as described by Marsilius conforms to Isidore of Seville's classification of monstrosity. According to this, monstrosity is categorized as one of the following ways of deformity: (1) hypertrophy of the body; (2) atrophy of the body; (3) excrescence of bodily parts; (4) superfluity of bodily parts; (5) deprivation of parts; (6) mixture of human and animal parts; (7) animal births by human women; (8) mislocation of organs or parts in the body; (9) disturbed growth (being born old); (10) composite beings; (11) hermaphrodites; and (12) monstrous races.¹³⁸ However, I could not find any instance of a description of a deformed monster similar to Marsilius' in any medieval literature on monstrosity.

Further, as far as I can determine, medical circles in the fourteenth century did not seem to have approached monstrosity from a medical perspective: there seems little evidence that teratology was widely discussed among medical scientists in the Middle Ages. Perhaps one of the earliest teratological studies is Ambroise Paré's *On Monsters and*

¹³⁴ William of Ockham, III *Dialogus* I, ii, c. 1 as translated in William of Ockham, *A Letter to the Friars Minor and Other Writings*, ed. A.S. McGrade and John Kilcullen (Cambridge, 1995), pp. 121–22.

¹³⁵ Williams, *Deformed Discourse*, pp. 126–27. See also Strickland, *Saracens, Demons, and Jews*, pp. 47–48.

¹³⁶ Williams, *Deformed Discourse*, pp. 157–59.

¹³⁷ John Block Friedman, *The Monstrous Races in Medieval Art and Thought* (Cambridge, MA, 1981).

¹³⁸ Isidore of Seville, *Etymologiae*, 11.52. See also Williams, *Deformed Discourse*, p. 107.

Marvels.¹³⁹ Nicole Oresme's description of tyranny as physical deformity seems to be an isolated instance in which humoral pathology was drawn on, although it was the type of medicine that he would have known to be popular and non-academic. It is difficult to say whether Marsilius' imagery of a deformed monster was based on the medical-teratological understanding common during his time.

THE MEDICALIZATION OF POLITICAL THEORY

So far I have attempted to establish some links between medical knowledge and political thought through the analyses of Marsilius' and others' medical metaphors; we have seen that medical learning constituted an important part of the *Defensor pacis*' intellectual sources. It cannot be shown that *all* of Marsilius' medical metaphors are firmly anchored in medical knowledge; however, they cannot be dismissed simply as casual similes or ornamental language. The metaphors of the heart and of complexion theory clearly show Marsilius' deployment of medical knowledge in political theorizing. Political conceptualization in the *Defensor pacis* did not merely involve the interplay among theology, philosophy, and law. The mental images of the medical concept of the human body came into play in that thought process. Marsilius' political thinking is thus more creative than has traditionally been acknowledged.

However, it is also important to note that Marsilius was aware of the limits of metaphorical language; he knew, as cognitive linguists maintain, that metaphors not only emphasize one aspect of experience but also de-emphasize and hide others. When he inquired whether it is expedient for rulers to be corrected through a judicial process or coercive power, Marsilius employed the metaphor of the heart again and wrote:

Because the heart does not take on any form through which it would be inclined to an action contrary to that which arises from its natural virtue and heat, it always naturally performs its appropriate action and never the contrary. Because of this it regulates and measures, through its influence or action, the other parts of the animal in such a way that it is not itself regulated by them in any way and received no influence from

¹³⁹ Ambroise Paré, *On Monsters and Marvels*, trans. Janis L. Pallister (Chicago, 1982).

either. However, because the prince, being human, has an intellect and a desire which can take on different forms—such as a false conception or a perverted desire or both—it is possible for him, if he follows them, to do things contrary to what is laid down by law. For this reason the prince is, in these actions, rendered subject to measurement by something else that has authority to measure or regulate him...¹⁴⁰

This shows that, according to Marsilius, the function of the heart was *not* analogous to the role of a ruler in *every* way. Whereas the heart is not dependent upon, and therefore cannot be corrected by, any other organ, since it never functions contrary to its natural virtue, the human ruler can be corrected, if his action transgresses the law, by other members of the body politic who have authority. Thus Marsilius imposed limits on the metaphor of the heart. When he used metaphorical expressions, he was fully cognizant of their linguistic effects and limits.

Did medical knowledge play a significant role in Marsilius' political discourse only through metaphors? As we have demonstrated, metaphor is a useful category of analysis to *identify* the social and intellectual contexts of a given text. The analysis of medical metaphors has shown that medicine was part of the intellectual context of the *Defensor pacis*; however, we can also extrapolate from this that medical learning may have determined other aspects of the work. Medical metaphors, indeed, can be seen as a cue for *reconstructing* the medical context.

One area in which medical science may have influenced the composition of the *Defensor pacis* is its structure. The work is divided into three Discourses. Discourse I discusses the origins, structure, and operation of the political community in generic terms, while Discourse II offers a criticism of the contemporary doctrine of papal *plenitudo potestatis* in the light of Scripture. The much shorter Discourse III is a summary of the observations made in the work. Modern historians

¹⁴⁰ Marsilius of Padua, *The Defender of the Peace*, trans. Brett, p. 124; Marsilius of Padua, *Defensor pacis* I.xviii.2–3, p. 97: “Propter quod sic regulat et mensurat per suam influentiam seu actionem reliquas partium animalis, quod ab ipsis nullatenus regulatur nec ipsarum influentiam recipit aliquam. Verum quia principans homo existens habet intellectum et appetitum, potentes recipere formas alias, ut falsam estimationem aut perversum desiderium vel utrumque, secundum quas contingit ipsum agere contraria eorum quae lege determinata sunt; propterea secundum has actiones redditur principans mensurabilis ab aliquo habente auctoritatem mensurandi seu regulandi ipsum secundum legem...”

have debated over the division between Discourses I and II. The two Discourses are contrasting not only in terms of content but also in argumentative style. Discourse I has often been regarded as presenting Marsilius' "democratic," "republican," or "secular" political theory; it makes almost no reference to biblical sources and relies exclusively on pagan authorities, including Aristotle and Cicero. The argument was solely derived from "sure methods discovered by human ingenuity, consisting of propositions that are self-evident to any mind not corrupted by nature, custom or perverse affection."¹⁴¹ Discourse II, in contrast, is viewed as an imperialist attack on the contemporary "papalist" view of the Church. It is heavily dependent on biblical and patristic sources to demonstrate that the papal theory and practice of Church government was biblically ill-founded. The argument is based on "testimonies of the truth upon eternity, and also with authoritative passages of the saints, its interpreters, and other approved doctors of the Christian faith."¹⁴²

The sharp distinction between the fields of reason and faith has often been attributed to Marsilius' subscription to Averroism.¹⁴³ However, this can also be seen to be a result of Marsilius' medical training. Per-Gunnar Ottosson maintained that scholastic medicine in the northern Italian universities was "strictly rational": "In the commentaries on Galen's *Tegni* there are never any references to Christian or ascetic points of view."¹⁴⁴ This rationalism is peculiar to northern Italian medical leaning. Arnald of Villanova and Bernard of Gordon, who were primarily based in Montpellier, made an effort to harmonize Galenic medicine with Christianity. Medicine and religion were inseparably intertwined with each other, as Arnald of Villanova argued. He maintained that physicians ought to help not only the body but also the soul, since many diseases are caused by sins. Northern Italian medicine, in contrast, treated health and diseases simply as the normal and abnormal state of the human body, suggesting no link between the natural state of the body and the Christian religion.¹⁴⁵

¹⁴¹ Marsilius of Padua, *The Defender of the Peace*, trans. Brett, p. 9.

¹⁴² Marsilius of Padua, *The Defender of the Peace*, trans. Brett, p. 9.

¹⁴³ Jeannine Quillet, "L'aristotélisme de Marsile de Padoue et ses rapports avec l'averroïsme," *Medioevo* 5 (1979), 124–42; Marangon, "Marsilio tra preumanesimo e cultura delle arti ricerca sulle fonti padovane del I discorso del 'Defensor pacis.'"

¹⁴⁴ Ottosson, *Scholastic Medicine and Philosophy*, p. 86.

¹⁴⁵ Ottosson, *Scholastic Medicine and Philosophy*, pp. 86–87.

This point was further explored by Marangon, who compared the introduction of Peter of Abano's *Conciliator* and Marsilius' *Defensor pacis* I.v.2–4, and suggested a common inspiration: Peter separates the Aristotelian notion of "living well" (*bene vivere*) from transcendental ends by reducing it to "a problem of equilibrium and proportion of elements." Marangon thus concludes: "Marsilius applies to politics this strictly professional sensibility, which reduces medicine to *scientia animalis*."¹⁴⁶ The methodological divorce of medicine from theology allowed Marsilius to employ the approach that treats the body politic on its own terms without any reference to transcendental ends, thus rendering civil science autonomous.¹⁴⁷ Marsilius' account of civil life was considered to be an extension of his professional sensibility as a physician.¹⁴⁸

Seen in this light, it is not absurd to describe Discourse I of the *Defensor pacis* as a work of "secular" political theory. It has been debated whether Marsilius undercut the idea of the realization of virtuous life in the civil community from the Aristotelian idea of a sufficient life. Gewirth argued convincingly that Marsilius' reference to the ostensibly Aristotelian idea of "living well" rested solely upon the "biological and economic needs" as the necessary conditions of the sufficient life, thereby excluding fulfillment of moral or theological ends from the means of preserving good civil life.¹⁴⁹ In this connection, Gewirth made an interesting remark: "Where they [i.e., those who subscribe to the traditional doctrine of social organicism] moralized biology, Marsilius biologized morals and politics."¹⁵⁰ In the light of our analysis, perhaps it is more accurate to say that Marsilius medicalized political discourse.¹⁵¹

¹⁴⁶ Marangon, "Marsilio tra preumanesimo e cultura delle arti ricerca sulle fonti padovane del I discorso del 'Defensor pacis,'" pp. 364–66.

¹⁴⁷ This is not to suggest, of course, that Marsilius did not recognize the truth of the Christian faith. In Discourse II, he examined revealed truth in Scripture on the civil life and its relationship to spiritual authority.

¹⁴⁸ Marangon, "Marsilio tra preumanesimo e cultura delle arti ricerca sulle fonti padovane del I discorso del 'Defensor pacis,'" p. 408.

¹⁴⁹ Gewirth, *Marsilius of Padua and Medieval Political Philosophy*, pp. 50–53.

¹⁵⁰ Gewirth, *Marsilius of Padua and Medieval Political Philosophy*, p. 51.

¹⁵¹ This is not to say, however, that medicine provided the paradigm for Marsilian political theory. Marangon also showed that political practice and (pre-)humanistic learning (especially of Geremia da Montagnone) in contemporary Padua were also possible intellectual sources. This, however, is out of the scope of the present chapter.

The medicalization of political theory helps to shed new light on some of the contentious issues in Marsilian theory. Marsilius' curious ambiguity about the ideal constitution has puzzled twentieth-century scholars. Whereas most medieval political thinkers were interested in defining a single optimal form of government, Marsilius refused to offer any definite blueprint: "To speculate...about which may be the best of the tempered forms of principate, or which the worst of the flawed, and the relative ranking of the rest in terms of goodness or badness, is not our present concern."¹⁵² Conal Condren's view that Marsilius' theory lacks normative content¹⁵³ was challenged by Cary Nederman, who argued that Marsilius' "generic" theory offers "a set of criteria for the good social and political life in general, without reference to constitutional, institutional, or territorial consideration."¹⁵⁴

This "generic" character may be ascribed to the modeling of political theory on medicine. Peter of Abano maintained that a complexion can be equal, unequal, or somewhere in between. The equal complexion can be determined in the light of two criteria: one is "in an absolute sense" (*quo ad pondus*) and the other is "in relation to justice" (*quo ad iustitiam*).¹⁵⁵ This dual estimation of equal—hence, good—complexion derives from Galen. He held that the balanced complexion is a relative concept. He introduced the term *justice* as the criterion of the proper temperament for each thing, as opposed to the criterion of absolute balance between qualities.¹⁵⁶ Thus, the balanced complexion "in relation to justice" varies from one organ to another. The tempered condition for the stomach, for example, is not the same as the balanced complexion for the liver. Likewise, all corporeal living things are complexionate, each plant or animal having its own characteristic complexional balance. The complexion of human beings varies from one person from another, according to conditions of life and external circumstances.¹⁵⁷ Gentile da Foligno scrutinized complexion theory

¹⁵² Marsilius of Padua, *The Defender of the Peace*, trans. Brett, p. 42.

¹⁵³ Conal Condren, *The Status and Appraisal of Classic Texts* (Princeton, 1985), pp. 189, 196.

¹⁵⁴ Nederman, *Community and Consent*, p. 20.

¹⁵⁵ Ottosson, *Scholastic Medicine and Philosophy*, p. 97.

¹⁵⁶ Ottosson, *Scholastic Medicine and Philosophy*, p. 89.

¹⁵⁷ Siraisi, *Medieval and Early Renaissance Medicine*, p. 102. Turisanus, as we have seen, made the same point.

and deduced that there are 256 different complexions, each of which requires attention from medical scientists.¹⁵⁸

The relativity of complexion contains a clue to explaining why Marsilius refrained from suggesting a single best constitution of the body politic. Just as the best complexion can vary from person to another, the best complexion for one state is likely to be different from that of another. Nicole Oresme drew on the theory of complexion to deny any perfectibility in politics when he argued, as we have seen, that it is impossible for the human body to achieve what physicians call the temperament for justice. For Oresme, the body can only acquire the state that is expedient for itself.¹⁵⁹ Marsilius did not assert or reject perfectibility in terms of the constitution or institutions of the body politic; he simply refused to discuss it for it was not his primary concern. His use of the term *complexion* implies that a “city” should acquire the best complexion which is unique to it, not necessarily the best complexion in the absolute sense. Thus the application of complexion theory enabled Marsilius to conceptualize the “tempered” ideal states of the body politic flexibly in terms of constitutions, institutions, and territory.

Hitherto, Marsilius has been interpreted in a variety of contexts, including Italian republicanism, imperial ideology, medieval corporatism, and, most recently, a Christian philosophy of history. But how do we verify that these are correct contexts in which Marsilius composed the *Defensor pacis*? Contexts are infinite; we historians reconstruct one or some of them in order to make sense of the object of our studies. Although we acknowledge that contexts are our own construct,¹⁶⁰ it still holds that they are not fictional. Any context that a historian reconstructs must be anchored in empirical evidence. But how do we identify it? This chapter has used metaphor to reconstruct Marsilius’ intellectual context; it proposes a cognitive linguistic approach to the history of ideas as a method of identifying a correct context. The cognitive analysis of Marsilius’ medical metaphor highlights the medical experiential basis of his political work. Medical learning and practice in early fourteenth-century Padua is probably a (if not *the*) correct

¹⁵⁸ French, *Canonical Medicine*, p. 91.

¹⁵⁹ See above note 79.

¹⁶⁰ Robert D. Hume, *Reconstructing Contexts: The Aims and Principles of Archaeo-Historicism* (Oxford, 1999), p. 61.

context in which Marsilius ought to be situated. Today, medical thought is rarely considered relevant to political ideas. The thought-world of the “political treatise” *Defensor pacis*, however, is not confined to what we consider to be “political”; identifying the sources of its intellectual inspiration poses a challenge to our modern prejudices.¹⁶¹

¹⁶¹ One possible venue for further investigation to the relationship between medicine and politics in the thought of Marsilius of Padua is to examine the influence of astrology on his political discourse. Astrology is an integral part of Peter of Abano’s medical thought. Jeannine Quillet has already identified some astrological allusions in the *Defensor pacis* (*La Défenseur de la paix*, p. 75, note 17; p. 161, note 23).

CHAPTER FOUR

MARSILIUS OF PADUA'S PRINCIPLES OF SECULAR POLITICS

Gerson Moreno-Riaño and Cary J. Nederman

Few political writings have generated as much controversy and garnered as much attention as Marsilius of Padua's *Defensor pacis*. But the reasons for the notoriety of this text and its author have varied with the centuries. As several chapters in this volume demonstrate, its reputation in the later medieval and early modern period was mainly a function of the views expressed there about ecclesiology and, in particular, papal power. At the center of Marsilius' political project was his stalwart opposition to the political pretensions of the priesthood and especially the papacy. He constructed his argument along several distinct lines, leading to the organization of the *Defensor pacis* into three discourses. Discourse I discusses the origins and nature of earthly political authority; the second discourse severely criticizes claims made on behalf of the rights of the Church and, particularly, the papacy to exercise temporal power and defends an alternate conciliar ecclesiology; a brief third section summarizes those conclusions derived from the preceding discussions that Marsilius regards to be especially useful or worthy of emphasis. The structural division between the substance of Discourse I and of Discourse II was unusual for its time, inasmuch as it implies a distinction between the treatment of temporal government and ecclesiastical affairs.

It should be noted that the *Defensor pacis* is by no means formed of two separate, self-subsistent and internally coherent treatises. Rather, a single central theme binds together the tract as a whole: the danger posed to human happiness (as experienced in the peaceful and self-sufficient community) by the interference of papal rule in secular life. The entire force of the argument in the *Defensor pacis* is directed toward demonstrating the disruptive effects of the papacy's attempts to regulate temporal affairs. Approached from this perspective, Discourse I stipulates the arrangements necessary to bolster the stability and unity of secular communities so as to repulse papal interference,

while Discourse II substitutes the principles of papal monarchy with those of a conciliar ecclesiology.

Where earlier generations of readers focused, with few exceptions, on the second discourse, modern scholarly literature has devoted perhaps the larger share of effort to examining Discourse I, which contains Marsilius' secular political theory. Despite occasional charges that this represents an anachronistic exercise,¹ the fact that Marsilius himself divided the *Defensor pacis* in this fashion—quite a novel structure for the early fourteenth century—invites us to conclude that he upheld a strict separation between the temporal and the spiritual ends of human existence and constructed his conception of the secular community (as well as the Church) accordingly. In the present chapter, we propose to expose and analyze the basic principles underlying the Marsilian idea of earthly social and political order. In particular, we will demonstrate how Marsilius moves the common medieval view of divine ordination of communal association into the background, without, however, surrendering completely to a more extreme secularism. In our view, his primary lesson is that God-given natural inclinations and reason stood behind the creation of human society, so that the human mind and its ability to will, while given to human beings by God, constitute the immediate basis of government and law. Hence, Marsilius remains broadly within the medieval Christian world-view yet is able to articulate a secular political theory that resonates in more modern contexts. Much like classical authors such as Plato and Aristotle, whose metaphysics are generally suspect but whose political and moral philosophies continue to have purchase in the twenty-first century, Marsilius offers the contemporary reader a teaching that is worthy of consideration.

Our interpretation of Marsilian theory should be mapped, first of all, against the background of the leading lines of scholarship during the last half-century or so. One central thesis holds Marsilius to be either a modernizing or even a radical thinker. This outlook is perhaps best represented in Alan Gewirth's *Marsilius of Padua and Medieval Political Philosophy*.² Gewirth suggested that while Marsilius' work

¹ See most recently George Garnett, *Marsilius of Padua and the "Truth of History"* (Oxford, 2006).

² Alan Gewirth, *Marsilius of Padua and Medieval Political Philosophy* (New York, 1951). Gewirth himself refers to a number of early twenty century scholars who advanced the modern outlook thesis.

inherited the “medieval tradition,” his use of this tradition “marked a decided change” and diverged in “basic ways” from a faithful use of it as seen in the works of other medieval thinkers.³ The example *par excellence* of Marsilius’ modern outlook, Gewirth suggests, is the former’s positivist theory of law. Since publication of Gewirth’s book in 1951—which helped fuel the resurgence of scholarly interest in the *Defensor pacis*—other scholars have taken up the mantle of Marsilian modernism. One finds widely scattered references to Marsilius’ work suggesting that it marks “the transition from medieval to modern conceptions,”⁴ that it “anticipated the end of the entire medieval tradition,”⁵ that it began the “modern career” of the concept of popular sovereignty,⁶ that it amounted to a “radical operation,”⁷ or that he himself was a “radical.”⁸ These references represent only a small sampling of the scholars who subscribe to the “modernizing” thesis. This line of reading has culminated in more recent assertions that, for example, the concept of religious toleration,⁹ the tension between representation and citizenship,¹⁰ various aspects of modern economic rationality,¹¹ and seeds of modern rights theories¹² are found in the *Defensor pacis*. Thus, Marsilius is capable of informing not only our understanding of the development of Western political theory but also of broadening current theoretical horizons of the political.

³ Gewirth, *Marsilius of Padua and Medieval Political Philosophy*, pp. 11, 32.

⁴ Paul E. Sigmund, Jr., “The Influence of Marsilius of Padua on XVth-Century Conciliarism,” *Journal of the History of Ideas* 23 (1962), 392–402, at p. 392.

⁵ John Ehrenberg, *Civil Society: The Critical History of an Idea* (New York, 1999), p. 52. Later on, Ehrenberg suggests that Marsilius’ theory of the state “anticipated the fully secular theories of sovereignty whose appearance would bring the Middle Ages to a close” (p. 54).

⁶ Anthony De Jasay, *Against Politics: On Government, Anarchy, and Order* (New York, 1997), p. 43.

⁷ Thomas O. Hueglin, *Early Modern Concepts for a Late Modern World: Althusius on Community and Federalism* (Waterloo, ONT, 1999), p. 139.

⁸ G.R. Evans, *Philosophy and Theology in the Middle Ages* (New York, 2003), p. 116.

⁹ Cary J. Nederman, “Tolerance and Community: A Medieval Communal Functionalist Argument for Religious Toleration,” *The Journal of Politics* 56 (1994), 901–18.

¹⁰ Cary J. Nederman, “Knowledge, Consent and the Critique of Political Representation in Marsiglio of Padua’s *Defensor Pacis*,” *Political Studies* 39 (1991), 19–35.

¹¹ Cary J. Nederman, “Community and Self-Interest: Marsiglio of Padua on Civil Life and Private Advantage,” *Review of Politics* 65 (2003), 395–416.

¹² Brian Tierney, “Marsilius on Rights,” *Journal of the History of Ideas* 52 (1991), 3–17. On some related issues, see A.S. Brett, “Politics, Right(s) and Human Freedom in Marsilius of Padua,” in *Transformations in Medieval and Early-Modern Rights Discourse*, ed. V. Mäkinen and P. Korkmann (Dordrech, 2005), pp. 95–118.

An alternative to claims of Marsilius' radicalism or modern character has been an effort to dissolve his thought into its medieval context. This approach is best exemplified in Ewart Lewis' stinging critique of Gewirth's ascription to Marsilius of a legal positivist outlook.¹³ But the contextualist interpretation has been advanced by a number of scholars, working both before and after Gewirth, especially those seeking the intellectual sources or precursors of the Paduan's ideas. In particular, a number of scholars have considered Marsilius to be the quintessential medieval Aristotelian, given the profusion of references in the *Defensor pacis* to the Aristotelian corpus—not just the *Politics* and *Ethics* but also the *Rhetoric* and (pseudo-Aristotle) *Economics*, as well as the *Metaphysics* and various works on natural philosophy. Late in the nineteenth century, James Sullivan suggested that Marsilius “borrowed from Aristotle,” while a few years later C.W. Previt -Orton called Marsilius Aristotle’s “discerning and independent pupil” and claimed that the Paduan “closely” followed and adopted various Aristotelian theoretical structures.¹⁴ Over the course of the twentieth century, it became a textbook interpretation (literally) to assert that Aristotle provided for Marsilius the fundamental and complete philosophical foundation for his political theory.¹⁵ The numerous references to Aristotle found within the *Defensor pacis* seem to weigh heavily in favor of reading Marsilius as a medieval Aristotelian. However, as Conal Condren has argued, Marsilius’ modern interpreters demonstrate an over-reliance on modern “canons of interpretive propriety” that attribute substantive philosophical merit to sources used and cited in classical texts.¹⁶ For Condren, Marsilius’ references to Aristotle or other ancient authorities are rhetorical and polemical tools, not evidence of any philosophical impulse. Others have argued that Marsilius was perhaps more influenced by an Augustinian conception of politics or a “Ciceronian impulse” than by The Philosopher.¹⁷

¹³ Ewart Lewis, “The ‘Positivism’ of Marsiglio of Padua,” *Speculum* 38 (1963), 541–82.

¹⁴ As early as the sixteenth century, Albertus Pighius had already called Marsilius “homo magis Aristotelicus quam christianus.” James Sullivan, “Marsiglio of Padua and William of Ockham I,” *The American Historical Review* 2 (1897), 406–26, at p. 425; C.W. Previt -Orton, “Marsiglio of Padua: Part II. Doctrines,” *The English Historical Review* 38 (1923), 1–18, at pp. 7–8, 16.

¹⁵ George H. Sabine, *A History of Political Thought*, 3rd ed. (New York, 1961), p. 291.

¹⁶ Conal Condren, “Marsilius of Padua’s Argument from Authority: A Survey of its Significance in the *Defensor Pacis*,” *Political Theory* 5 (May 1977), 205–18, at p. 205.

¹⁷ Joanna V. Scott, “Influence or Manipulation? The Role of Augustinianism in the *Defensor Pacis* of Marsiglio of Padua,” *Augustinian Studies* 9 (1978), 59–79; and Cary

In contrast to these two major and potentially (although not necessarily) conflicting approaches to Marsilius' political thought, the focus of the present chapter is to demonstrate that his secular doctrines are grounded on a doctrine that is simultaneously consonant with medieval Christianity and innovative in its force—both conventional and original. In particular, we claim that Marsilius' argument is cemented throughout the *Defensor pacis* by an underlying principle that emerges upon a careful reading of the text. This idea appears immediately within the first chapter of Dictio I in *Defensor pacis* and is woven throughout the latter, as well as into the *Defensor minor* and *De translatione Imperii*.¹⁸ We term this theme “good sense,” implying a normative cognitive disposition that grants to most human beings either a body of self-evident truths and the ability to reason from those truths or at least the ability to recognize such truths and appropriate conclusions reasoned from them.¹⁹ Marsilius' task in all of his works is not necessarily to discover and expound new principles of political thought or practice, but to assist his audience in recollecting, remembering, or identifying self-evident truths and conclusions that they already know or can readily identify as true yet do not apprehend due to custom,

J. Nederman, “Nature, Justice, and Duty in the *Defensor Pacis*: Marsiglio of Padua's Ciceronian Impulse,” *Political Theory* 18 (1990), 615–37.

¹⁸ See, for example, *Defensor minor* II.7; V.11, 13, 17; XIV.4 and *De translatione Imperii* I, VI. Throughout the former, Marsilius employs the language and tools of rational discourse and logic to defend the argument that the earthly ruler has the power to decide legally issues of marital dissolution and to reveal the error of the opposite view. This tactic clearly presupposes the common rationality of the audience to which Marsilius appeals. The entire *De translatione Imperii* can be considered an example of Marsilius' belief that tradition, custom, and prejudice often serve to corrupt the reasoning of human beings. Thus, *De translatione Imperii* is Marsilius' rational attempt to rectify the error and re-educate his readers. See the edition of Marsilius of Padua, *Œuvre Mineures: Defensor Minor. De translatione Imperii*, ed. Colette Jeudy and Jeannine Quillet (Paris, 1979). For an English translation, see Marsilius of Padua, *Writings on the Empire: Defensor minor and De translatione Imperii*, ed. Cary J. Nederman (Cambridge, 1993).

¹⁹ Marsilius writes that civil happiness “seems the best of the objects of desire possible to man in this world” (“que in hoc seculo possibilium homini desideratorum optimum videtur et ultimum actuum humanorum”) and that the first discourse of *Defensor pacis* will be substantiated by “sure methods discovered by the human intellect, based upon propositions self-evident to every mind not corrupted by nature, custom, or perverted emotion” (“quarum demonstrabo intenta viis certis humano ingenio adinventis, constantibus ex propositionibus per se notis cuilibet menti non corrupte natura, consuetudine vel affectione perversa”). We follow the edition of Marsilius of Padua, *Defensor pacis*, ed. Richard Scholz, 2 vols, *Monumenta Germaniae Historiae, Fontes iuris Germanici antiqui in usum scholarum separatim editi* 7 (Hanover, 1932–33), I.i.1, and the translation by Alan Gewirth, *The Defender of Peace* (New York, 1956).

fear, prejudice, or ignorance. He considers his work, as illustrated in *Defensor pacis*, to be merely *sentenciarum* that expose the cause of strife destroying the peace of Italy, the Roman empire, and Europe more generally.²⁰ If there is to be one exception to Marsilius' modest proposal, it is his suggestion that this *litis causam* is new and therefore could not have been known to Aristotle. Beyond this assertion, Marsilius' tone is primarily that of a medieval whistle blower.

To suggest that Marsilius is a medieval whistle blower is not to deny that he advances a well-structured set of political doctrines, nor is it to confirm that he was simply a self-interested politician. In its truest and most noble sense, whistle blowing calls attention to the moral failings of leadership and institutions and suggests common-sense solutions to these problems. As such, Marsilius' whistle blower status leads him to propose a normative set of doctrines with aspirations toward universality and, if followed, with serious political ramifications. This helps in part to explain the use of medical analogies throughout Marsilius' writings, examined by Takashi Shogimen in Chapter 3 of this volume. A dysfunction (e.g., political strife) exists, therefore a remedy must be proposed. But one should also consider the fact that an organic understanding of politics informs his call to action, one in which the body politic is analogous to a natural, living, breathing organism susceptible to disease and death. As such, Marsilius' proposals are not mere functional solutions but medicinal prescriptions for the health and well being of the civil community.

TRANQUILLITAS, REGNUM, ET STATUS VITAE PRESENTIS

Marsilius' starting place for his doctrines is to assume the existence of an optimal human good, which he terms "sufficiency of life." Such *summum bonum* is the result of a variety of arts and goods but cannot occur without the most basic of requirements: peace and tranquility. Nowhere does Marsilius suggest that sufficiency of life is a guarantee of human life and the political community. It is the most desirable of human goods, however, and, while it cannot be guaranteed, there are some basic preconditions that must exist if one is to have the opportu-

²⁰ Marsilius of Padua, *Defensor pacis* I.iii. This is also the case in *Defensor minor* and *De translatione Imperii*, where Marsilius writes to address very specific purposes and makes no pretensions of intellectual or theoretic grandeur.

nity to pursue earnestly the greatest of human goods. Marsilius is not interested in defining for his readers what sufficiency of life entails for them or for the entire human race. His primary concern is to remind his audience that pagans and Christians have universally agreed as to the blessedness of peace as a means to human flourishing. And, consequently, it is obvious to "almost all men" that the "worst fruits and troubles" (*fructus et incommoda pessima*) of human life and the political community are a result of the contraries of peace: discord and strife. Marsilius' fundamental precepts, sufficiency of life and its prerequisite of peace, facilitate his creating and defending a set of political doctrines which he considers to have both universal appeal and trans-historical significance.

The centrality of peace as the healthy disposition of the political community leads Marsilius to address the meaning of *regnum*.²¹ The definition proposed is qualitative in nature and appears to be dependent on the level of development of the polity in question. In Chapter 2 of Dictio I, readers are told that the most appropriate meaning of *regnum* encompasses a common characteristic of every "temperate" regime. There is a clear avoidance of defining *regnum* in terms of either quantity (size) or type (e.g., monarchy). Rather, the emphasis is upon a particular quality that all mature regimes share. At this point, Marsilius does not betray what quality essentially defines *regnum*. Rather, he begins to develop an account of the essential nature of the political community as well as its structure. All of this is done not so much for the sake of proposing an account of *regnum* but for advancing a correct understanding of what peace and tranquility mean. One cannot overlook how deliberate and cautious Marsilius' arguments are at this point. He exhorts his readers that unless clarity is gained regarding what tranquility means, "one is necessarily ignorant also of what is intranquillity." Consequently, the discussion of the origin and structure of the *communitas civilis* is part of a larger argument regarding the nature of tranquility and peace within the body politic. The concern of Marsilius' writings is to contextualize peace and tranquility within a temporal and political horizon and, therefore, as goals achievable through human reason and effort. This is a conscious

²¹ Marsilius uses both *regnum* and *civitas* interchangeably. See, for example, *Defensor pacis* I.ii.1: "Aggredientes itaque proposita, primum manifestare volumes, quid sit tranquillitas et intranquillitas regni vel civitatis..."

and deliberate proposal to direct the success and well being of civil society away from faith-based, religious considerations to rational and political concerns. For Marsilius, the problems of politics are solved rationally, not spiritually.

Marsilius' starting point for defining tranquility is to suggest that the *communitas civilis* is analogous to an animal. For, just "as an animal well disposed in accordance with nature" has various parts all performing specific functions and leading to a state of health, so too does a political community "well disposed and established in accordance with reason" have various parts all functioning appropriately and leading to a state of peace and tranquility.²² The basis of political peace is the rational ordering of the political community. While Marsilius suggests an analogous relationship between biological creatures and the body politic, such identification does not correspond at every level. Creatures are born and develop on their own without any external orchestration. Thus, they are either "well disposed" according to nature or they deviate from the natural order. Political communities, while they too follow a process of natural development, can be externally orchestrated in "accordance with reason." The natural process of development for civil society serves to illustrate the various stages of development of numerous societies along with successful and imperfect examples. Such empirical analysis identifies the natural impulses which all societies share in common thus leading investigators to a knowledge of the "first principles" of civil life.

Marsilius' empirical analysis of the origins or "rise" of civil communities results in the identification of three basic natural impulses foundational to civic life. All communities are a result of an impulse toward life (self-preservation), an impulse toward order (government/justice), and a natural desire for self-sufficiency requiring that communities be established on the basis of a division of labor amongst members. The perfect community is that which exists not only for life but for the well-lived life. And this well-lived existence is predicated upon cooperation and justice or the proper ordering of the community. Marsilius' clear concern is to address the "living and living well" of this world or that which "the glorious philosophers comprehended

²² This account first appears in Marsilius of Padua, *Defensor pacis* I.ii.3.

almost completely through demonstration.”²³ Without revealing his true beliefs about the existence or knowability of the heavenly, Marsilius, again citing the philosophers as authoritative, suggests that it is nigh impossible to discuss with any degree of confidence or certainty the living and living well associated with the eternal or heavenly. Consequently, the Paduan does not consider a religious doctrine as essential to a discussion regarding the requirements for a well-lived earthly life.

Up to this point, Marsilius has still not given his readers a definition of *regnum* or the *communitas civilis* (terms that he employs interchangeably). He has suggested that the *civitas* is a *perfecta communitas* based on a desire for self-preservation and human flourishing, justice, and a division of labor for the sake of self-sufficiency. Given Marsilius' earlier emphasis on quality rather than on quantity and type, it is of surprise that his definition of *civitas* emphasizes the quality of life and human development. This qualitative emphasis allows Marsilius to situate his argument within broadly Aristotelian grounds and, more importantly, to appeal to what he considers to be an universal human desire, viz., the desire for human flourishing. Such flourishing can only occur in a “perfect community” (*perfecta communitas*) or “temperate regime” (*regimen temperatum*),²⁴ where the division of labor assumes the need to provide for a standard of justice and a “guardian or maker thereof” (*custodem sive factorem*). Perhaps even more important, from a theoretical standpoint, is Marsilius' argument that, while spiritual needs are indeed an aspect of human flourishing and thus should be provided for, given the division of labor principle, they are provided for through the designation of the *civitas*. This is peculiar. The norm

²³ Marsilius of Padua, *Defensor pacis* I.iv.3: “Comprehenderunt per demonstracionem philosophi gloriosi rem quasi completam.” Here Marsilius suggests that two different opinions exist regarding the “living and living well”: one considers living and living well as primarily a temporal question, and the other considers it a spiritual question. Marsilius clearly favors the former opinion.

²⁴ Marsilius, citing Aristotle, defines a temperate regime as one in which the “ruler governs for the common benefit, in accordance with the will of the subjects” (*Defensor pacis* I.viii.2). Whether Aristotle's definition included or implied the importance of the “will of the subjects” to the definition of a well-tempered regime is a matter of debate. In *Defensor pacis* I.ix.7, Marsilius adds two other distinguishing characteristics to a temperate regime: the rule of law must be prevalent, and the rule must be over voluntary and consenting subjects. The latter, so Marsilius writes, is “absolutely or in greater degree” the distinguishing criterion for a temperate polity and is best realized through election of the ruler.

of justice and its keeper(s) are provided for presumably by the community. Marsilius does not spend much time delineating the process of this important part of the *civitas*, only suggesting that such a function “had to be established.”²⁵ But he presents the establishment of institutional religion as existing through the will of the community, a process that appears, at least as presented within the *Defensor pacis*, as longstanding and normally appropriate.²⁶

At the end of Chapter 4 of Dictio I, readers are finally offered a meaning of *civitas*: a perfect multi-faceted community arranged for the sake of self-sufficiency and with the goal of achieving a well-lived life for all its members. Thus far, Marsilius has informed his readers of three parts of the state: justice and its institution, religion and its institution, and the diverse arts. In Chapter 5 of Dictio I, Marsilius offers a more nuanced portrait of the *civitas* based on Aristotle’s classification within the *Politics*, where the political community is composed of six parts. To this classification Marsilius adds two important categories absent from Aristotle’s schema: temporal well being and eternal well being, categories that are used to differentiate among all the parts of the state. The account of the *civitas* presented suggests that the parts of the state are intimately related to the nature of human beings,²⁷ to their natural desire for a well-lived life, and to their rational creativity. The creation of the parts of the *civitas* is a natural, rational, and creative process so as to provide the necessary arts or communal functions through which to regulate and appropriately fulfill the diverse actions and passions of human beings, whether they be for food, clothing, or aesthetic delight. The case is no different for the “‘judicial’ or ‘ruling’ and ‘deliberative’ part” (*iudicialis seu principans et consiliativa*), which, unlike the other arts, serves to “moderate the excesses” of human acts and thus prohibit destruction and loss of life. The necessity of the parts of the state is indubitable except for that part assigned to religion: the priestly. As Marsilius writes: “All men have not thought so harmoni-

²⁵ This is addressed in further detail in Marsilius of Padua, *Defensor pacis* I.ix and commented on below.

²⁶ In *Defensor pacis* I.vii, Marsilius argues that all offices, insofar as they are parts of the *civitas*, exist on account of the human legislator. Only rarely do such offices exist on account of another authoritative agent (i.e., God) external to the human political community. Even if such rare occurrences do exist, Marsilius does not consider them worthy of investigation since they are beyond good sense. On this point, see Marsilius of Padua, *Defensor pacis* I.ix.2–3.

²⁷ See, in particular, Marsilius of Padua, *Defensor pacis* I.vi.10 and I.vii.

ously about this as they have about the necessity of the other parts of the state."²⁸ The reason for this hearkens back to the notion of "good sense" introduced earlier. Religion is other-worldly and thus beyond "good sense" and demonstration. While political communities did in fact establish religious offices for the goods of eternity, Marsilius suggests, again citing philosophers as his authority, another reason for their existence is civil control. There is no condemnatory language for this use of religion, leaving open the possibility that such use of religion is allowable in Marsilius' polity.

A subtle distinction is introduced in Chapter 6 of *Dictio I*, where readers are told about the "final cause" of the "true" priesthood in "communities of the faithful."²⁹ The function of priests in the Christian community is to observe the divine law (*observacio preceptorum legis divine*) and minister God's grace and mercy to the community through teaching the "commands and counsels of the Christian evangelical law" (*legis evangelice christiane precepta et consilia*). Marsilius clearly places the priestly order within a didactic role under the authority and will of the *civitas*. This part of the community is not a *primus inter pares* but a co-collaborator for the health and well being of the society. Marsilius' refusal to permit to the priesthood any earthly independence from the community derives primarily from his conception of law. Legal prescriptions that have a coercive force, and hence can be physically imposed upon individuals, are by definition temporal. But the proper function of the priesthood is the education and preparation of souls for eternal life, a task that is of a wholly spiritual character. For priests to have legislative power would amount to one part of the civic body dictating its will to the remaining segments, a situation the validity of which, given Marsilius' political theory, is null. In suggesting that the

²⁸ Marsilius of Padua, *Defensor pacis* I.v.10: "De qua non omnes homines sic senserunt concorditer, ut de necessitate reliquarum parcium civitatis."

²⁹ This opens up the very interesting question as to whether the ruler in non-Christian societies differs as to his task in comparison to the ruler in communities of the faithful. Is the difference only in regards to priests? Or does it also apply to rulers. And if so how? If no difference exists, why is this so? Is it based on the subject matter? It should also be noted that this subtle distinction allows Marsilius to present a subtle distinction regarding the establishing of religious offices within the *civitas*. In pagan societies, such offices are the creation of the "judicial" or "deliberative" part. In "communities of the faithful," Marsilius suggests, religious offices or the "priesthood" are established in two ways. First, in terms of calling or vocation, Christ is the author of such offices. Second, in terms of function within the political community, it is the human legislator that authorizes them.

priesthood exists at the behest of the judicial or deliberative part of the community and that only the temporally well-lived life can be rationally discussed, Marsilius has in effect achieved a strategic victory in his defense of the peace of the *civitas*. Not only do peace and tranquility, the health of a well-disposed community, require that all parts perform their functions well, it also requires that one understand peace and its acquisition in temporal terms. Consequently, the supremacy of temporality necessitates the subordination of the spiritual.

A question that lurks in the background is whether or not Marsilius is offering a theory of politics that is drastically secular and naturalistic, one that is at odds with a more traditional medieval Christian account of politics. Given all of the references to nature, art, human will, and the human legislator, as well as Marsilius' distinction between temporal and eternal, the faithful and the pagan, one would expect Marsilius to have propagated a secular political theory. Indeed, the secondary literature on the subject seems to attest just this, namely, that Marsilius' account of politics is secular, if not antagonistic to Christianity. The political theory advanced in Marsilius' works is, however, a bit more nuanced than often thought. It is a political theory that is well within the theological parameters of any Christian account of politics, though it may not fit the mold of the more prototypical ones. The most important piece of evidence for this claim is Marsilius' own admission that God "grants all earthly rulership" (*omnem principatum terrenum eciam concedit*) and uses human minds to establish governments.³⁰ To support this claim, Marsilius cites Chapter 19 in the Gospel of John and Chapter 13 in Paul's Letter to the Romans, both well-known and often-used passages to support the claim regarding the divine foundation of all human government.³¹

While Marsilius' theory of politics is not novel, given his essential agreement with a long established Christian tradition that considered politics as sacred, it is highly nuanced. Marsilius' ability to pursue his anti-papal line of political reasoning depends heavily upon his postulation of a sharp distinction between temporal and spiritual realms in the *Defensor pacis*. For Marsilius, temporal ends are for the most part

³⁰ Marsilius of Padua, *Defensor pacis* I.ix.2.

³¹ The actual texts are John 19:11: "Respondit Iesus non haberes potestatem adversum me ullam nisi tibi esset datum desuper propterea qui tradidit me tibi maius peccatum habet"; and Romans 13:1: "Omnis anima potestatibus sublimioribus subdita sit non est enim potestas nisi a Deo quae autem sunt a Deo ordinatae sunt."

indifferent to spiritual goals. The term *spiritual*, Marsilius says, "refers to every immanent action or passion of human cognitive or appetitive power,"³² where "immanent" acts are understood as wholly internal and self-regarding. Immanent acts are spiritual in the sense that they do not transgress the boundaries of the soul, hence are invisible to human observation and are known only to God. By contrast, the temporal activities of a human being, Marsilius believes, are of concern to other people to the extent that they are "transient," that is, have an impact on someone else. Consequently, "transient" acts are the proper object of regulation by the laws and rulers of the political community.³³ When transient behavior is performed in due proportion, it results in benefits to others as well as to oneself. When transient action is excessive, however, it disadvantages another person.

Marsilius therefore enshrines temporal advantage as a fundamental and entirely legitimate goal of human conduct. Indeed, he establishes "as the starting-point of everything to be demonstrated...that all human beings not deformed or otherwise impeded naturally desire a sufficient life, and avoid or flee what is harmful thereto."³⁴ Once again, Marsilius raises the issue of good sense as a means to defend the obviousness of temporal advantage. And he adds the voices of Cicero and Aristotle to further support his claim regarding the importance of the material sufficiency of human life.

RATIO, LEX, ET POPULUS

If there is a truly novel aspect to the Paduan's political theory, it is his trust in human reason or the "good sense" suggested earlier. It is here that Marsilius parts company with much of the Christian tradition, since the latter was suspicious of any claims concerning the nobility of the human mind, be it saved or lost. Marsilius' confidence in human reason, and thus his casual observance of the theological concept of original sin,³⁵ is illustrated not just in his comments summarized in the term "good sense" but also in his belief that human

³² Marsilius of Padua, *Defensor pacis* II.ii.5.

³³ Marsilius of Padua, *Defensor pacis* I.v.7.

³⁴ Marsilius of Padua, *Defensor pacis* I.iv.2.

³⁵ Marsilius mentions it prominently in *Defensor pacis* I.vi but does not attribute to it any epistemological effects.

beings have the God-given capacity to construct and orchestrate living arrangements that facilitate peace and well being to various degrees, without any dependence upon extra-rational mechanisms. This helps to explain Marsilius' scientific-like descriptions of the development of the political community, the various selection processes for monarchs, and matters of historical record. His goal is to describe, explain, and recommend appropriate prescriptions to remedy unnatural conditions. These prescriptions are clearly evident to anyone not naturally corrupted or governed by reason.³⁶ What is good or bad for the polity is not a matter solely adjudicated through faith, theology, and religious institutions. Marsilius erects and defends a powerful claim that human beings, with the aid of their natural capacities, are the best and only needed determinants for what constitutes the health or illness of a polity.³⁷ For Marsilius, the existence and success of the *civitas* are human concerns; they are political affairs, not metaphysical ones.

Such strong commitment to the nobility of human rationality is evident throughout the *Defensor pacis*, particularly in the discussions regarding the optimal *civitas*, the creation of law, and Marsilius' theory of consent.³⁸ In all of these topics, human reason redeems humanity from a crass and animalistic self-interest to an enlightened, other-regarding, and just instrument. It provides humanity with the capacity for cooperation and social responsibility. It is the means by which to acquire the optimal condition of the political community, viz., tranquillity.³⁹ Reason is that which facilitates the best polity and all that is necessary for a well-lived life. It is the quality of human beings that allows them to fulfill their potential through creativity in the structuring of the civic body.⁴⁰ It is that which brings into existence the ruling part of the *civitas* "to regulate matters of justice and the common benefit."⁴¹ And it is human reason that is tantamount to law—that

³⁶ The concept of unnatural or deviance from the natural norm appears throughout *Defensor pacis*. For example, see Marsilius of Padua, *Defensor pacis* I.iv.2.

³⁷ Nowhere does Marsilius imply immediate success for human action and political artifice. But the potential always exists for success so long as human beings act rationally.

³⁸ Aspects of the following exposition regarding the *civitas*, law, and consent are borrowed from Gerson Moreno-Riaño, "Hierarchy, Ambiguity, and a *Via Media* in Marsilius of Padua's *Defensor Pacis*," in *The World of Marsilius of Padua*, ed. Gerson Moreno-Riaño (Turnhout, 2006), pp. 256–60.

³⁹ Marsilius of Padua, *Defensor pacis* I.ii.3.

⁴⁰ Marsilius of Padua, *Defensor pacis* I.v.3.

⁴¹ Marsilius of Padua, *Defensor pacis* I.v.7.

which should always rule man and society—and which is the creator of human law itself.⁴² This helps to explain Marsilius' claims that the *Defensor pacis* can be observed by "every mind," that the desirability of a sufficient life is "a principle naturally held, believed, and freely granted by all," and that he will only discuss the creation of those laws and governments "which emerge immediately from the decision of the human mind."⁴³ It is clear that Marsilius is a firm believer in the power of human reason to achieve human and political excellence.

Nowhere is Marsilius' commitment to human reason more evident than in his discussion of the creation of human law and his exposition regarding the *populus*. In classic fashion, he states that the chief end of law is "civil justice and the common benefit" and that law is necessary for the "complete rightness" of civil judgments.⁴⁴ Law facilitates "good" civil judgments with "right emotion" and "true knowledge" of the particulars concerned. It protects rulers from "perverted desire" and ignorance, since it is impartial and the voice of prudence.⁴⁵ It is that which determines "well-nigh perfectly what is just or unjust, beneficial or harmful, with regard to each human civil act."⁴⁶ And human law is nothing more than the utmost expression of human reason in political life, so much so that Marsilius, citing and commenting on Aristotle's moral teachings, equates law to reason when he writes:

Hence [Aristotle] said in the *Ethics*, Book IV, Chapter 5, the treatise on justice: "We must not allow man to rule, but" in accordance with "reason," that is, law...[and] in the *Politics*...Book III, Chapter 9, he said... "Hence the law is reason without desire," as if to say that the law is reason or knowledge without emotion.⁴⁷

Law, then, is necessary because it is rational and thus offers the needed guidance by which to ensure that the *civitas* be "ordered with entire rightness."⁴⁸

Marsilius' view of the *populus* as sophisticated political actors further demonstrates his confidence in humans' rational capacity. Citizens can "discover the law taken materially and in its third sense, as the science

⁴² Marsilius of Padua, *Defensor pacis* I.ii.3–4, I.xii.1.

⁴³ Marsilius of Padua, *Defensor pacis* I.i.8, I.iv.2, I.xii.1.

⁴⁴ Marsilius of Padua, *Defensor pacis* I.ii.1.

⁴⁵ Marsilius of Padua, *Defensor pacis* I.ii.2–3.

⁴⁶ Marsilius of Padua, *Defensor pacis* I.ii.3.

⁴⁷ Marsilius of Padua, *Defensor pacis* I.ii.4.

⁴⁸ Marsilius of Padua, *Defensor pacis* I.ii.8.

of civil justice and benefit” or the “true knowledge or discovery of the just and the beneficial.”⁴⁹ Marsilius admits, however, that while this can be undertaken by any member of the community, it is more suitable for men who “have leisure, who are older and experienced in practical affairs, and who are called ‘prudent men.’”⁵⁰ These *prudentes* are more suited for this task not because they are more rational or reasonable than the average citizen. Marsilius assigns this duty to them because they possess the “best and most acute minds” and are therefore to be entrusted as “prudent and experienced [in] the investigation, discovery, and examination of the standards, the future laws or statutes, concerning civil justice and benefit.”⁵¹ Intelligence, practical experience, moral character, and reasonableness are key traits that qualify the *prudentes* in assessing just standards and forming potential laws for the community. The rational citizenry is assigned a tremendously important role in this process—the approval of the laws themselves. Again, Marsilius demonstrates his unyielding trust in human reason to structure an optimal civic community. As mentioned earlier, not only are citizens able to discover the proper condition of law, they are also able to judge whether the substantive content of these proposed norms meet the proper condition of justice.⁵² Marsilius’ citizens, or the *valentior pars*, are authorized to make human laws since only from them can the “best” laws emanate, viz., those which realize the common benefit of all.⁵³ Such an event is possible due to the very fact that all or most citizens are reasonable and “of a sound mind and reason and have a right desire for the polity and for the things necessary for it to endure.”⁵⁴ Only the very few appear to have “a deformed nature, disagreeing with the common decision through singular malice or ignorance.”⁵⁵ The common benefit of any law is best judged by all of the citizens due to their quantity, their knowledge of what is beneficial, and their ability to enforce the law.⁵⁶

⁴⁹ Marsilius of Padua, *Defensor pacis* I.xii.2. But also consider *Defensor pacis* I.xiii.7.

⁵⁰ Marsilius of Padua, *Defensor pacis* I.xii.2.

⁵¹ Marsilius of Padua, *Defensor pacis* I.xiii.8–9.

⁵² “Proper condition” entails law as both coercive and just. See *Defensor pacis* I.x.5.

⁵³ Marsilius of Padua, *Defensor pacis* I.xii.5.

⁵⁴ Marsilius of Padua, *Defensor pacis* I.xii.5, I.xiii.3.

⁵⁵ Marsilius of Padua, *Defensor pacis* I.xii.5.

⁵⁶ Marsilius of Padua, *Defensor pacis* I.xii.5–8.

For Marsilius, all or most of the citizens of his community—including the important *prudentes*—are virtuous human beings who can be entrusted to ensure the longevity of this best-ruled state. Marsilius is well aware that many may disagree with his conclusions and devotes an entire chapter of Discourse I to answering his potential critics. The criticisms considered are what one would expect—they attack Marsilius' position as being overly idealistic and perhaps even naive. The authority to make or establish human law cannot belong to the whole body of citizens, because they are "vicious and undiscerning" or "stupid." And because they are such, their views will be impossible to harmonize for the benefit of all.⁵⁷ In essence, only the few and virtuous can make law that is truly beneficial for all, and therefore these are the only legitimate ones to be responsible for its promulgation. Marsilius' refutations stress, again, his entrenched commitment to and confidence in human reason. It is not simply that Marsilius believes in a democratic impulse and consent as best governing a community, because they place a limitation on arbitrary authority.⁵⁸ This may be partly correct. But it is certain that he advances what may appear as a democratic impulse or a consent theory because it is the best means by which to allow members of the community to exercise their rational abilities and reasonableness and thus help to ensure the success and realization of the optimal *civitas*—one which is the culmination of a natural process and one in which all have a stake.⁵⁹ Marsilius' purpose is clearly to structure the perfect political regime, as he himself writes, the "state governed according to virtue" or "the state appropriately established according to reason."⁶⁰ And Marsilius is confident that human reason, as expressed through the citizens' consent and creation and approval of law, is the proper means to accomplish this feat.

Marsilius further expands his rational consent theory to encompass both the election and evaluation of the governor. Just as citizens are able to create and approve the law of the community, so, too, are they

⁵⁷ Marsilius of Padua, *Defensor pacis* I.xiii.1.

⁵⁸ The association with "democratic" leanings on Marsilius' part was challenged by Conal Condren, "Democracy and the *Defensor pacis*: On the English Language Tradition of Marsilian Interpretation," *Il Pensiero Politico* 8 (1980), 301–16. However, this view has been decisively refuted by Mary Elizabeth Sullivan, "Advocating Democracy in the Fourteenth Century: Marsiglio of Padua's Use of Democratic Arguments in the *Defensor Pacis*," *Viator* 41 (2010), 257–70.

⁵⁹ Marsilius of Padua, *Defensor pacis* I.xiii.2, 7–8.

⁶⁰ Marsilius of Padua, *Defensor pacis* I.xiii.2, I.xv.6.

able to elect the ruler. Marsilius' argument is not as simple as it may appear. He argues that even as the citizens are able to judge the just character of law, they are suitable judges of the qualifications that a ruler ought to possess to utilize the law in a just fashion.⁶¹ Citizens have the moral capacity to create and approve truly just law and to elect truly virtuous rulers. The existence of such citizenry is difficult to imagine, and it is amazing that Marsilius implies its reality. And more amazing still is Marsilius' claim that such a "perfect ruler" exists.⁶² This individual is tantamount to a philosopher-king. He must possess "prudence and moral virtue, especially justice," equity, and "an outstanding love or benevolence for the polity."⁶³ All of these virtues are to serve as guides for the ruler to ensure the rule of law (i.e., reason), to ensure proper judgments when the law is silent (i.e., the ruler of equity and virtue), and to secure the prosperity and well being of the community.

The reasonableness of the *populus*, Marsilius insists, necessitates a politics of inclusion, and he thus construes citizenship in a remarkably extensive fashion. Citizenship in the community is conferred on a strictly functional basis, judged according to the usefulness of various human activities for the meeting of material human needs. Marsilius intends citizens within the community to take an active role in their own governance, locating popular consent at the center of his theoretical framework. Such consent arises directly from the functional character of the community. First, all whose interests are served or effected by a community must agree to the conditions of association (that is, law and rulership). Second, having so consented, all such citizens are absolutely bound to obey the law and the determinations made by rulers in accordance with it. In other words, people must individually as well as collectively submit to the terms of their cooperation, after which they can be held strictly accountable for excessive "transient" actions that are detrimental to the advantage of fellow citizens.

As a consequence, the *Defensor pacis* holds that the legitimacy of both laws and rulers depends wholly upon their "voluntary" character, that is, the extent to which those subject to their jurisdiction have publicly and overtly consented to their authority.⁶⁴ What Marsilius in fact

⁶¹ Marsilius of Padua, *Defensor pacis* I.xv.3.

⁶² Marsilius of Padua, *Defensor pacis* I.xiv.2.

⁶³ Marsilius of Padua, *Defensor pacis* I.xiv.2–7.

⁶⁴ Marsilius of Padua, *Defensor pacis* I.ix.5, I.xii.3.

regards to be distinctive of citizenship is the ability to express one's rational will in the political venue, by judging for oneself the validity of prospective rulers and laws. This implies, for Marsilius, not merely formal, corporative assent but an extensive privilege on the part of each individual citizen to examine prospective laws and rulers.⁶⁵ Each and every member of the community reserves to himself final judgment about all matters of public regulation, realized by an act of explicit consent. Hence, no one can protest against the enforcement of a law to which one has already assented.⁶⁶ The peace is best upheld when it is regarded as an expression not of the power of the government but the will of the civic body.

AFTER THE *DEFENSOR PACIS*

After the completion of the *Defensor pacis* and before 1327—the evidence is ambiguous—Marsilius composed another treatise concerning the historical origins of imperial authority. *De translatione Imperii* seeks to demolish the papal claim that only the Roman pontiff possessed the right to choose and crown the emperor. The purpose of *De translatione Imperii* is twofold. First, it seeks to establish that the modern incumbent of the office of the Roman Emperor holds his position as a result of a series of rightful transfers of power and in accordance with the correct procedure for his selection. Second, it aims to show that no matter how central a role the papacy has played in encouraging the transfer of the imperial seat, its function is purely honorific and incidental, inasmuch as the rights to the empire were acquired by the Franks and then the Germans on the basis of wholly secular events. From the latter it may be concluded that, even if custom has permitted popes to crown new emperors, the source of imperial authority is not vested in the papacy but in an earthly historical process external to papal control. The philosophical and legal premise supporting Marsilius' view may be characterized as follows: if a ruler (or indeed any person) is in possession of a set of rights as a result of an earlier series of just transfers (inheritance, gift, and so on), then no extraneous grounds may be invoked to override or deny those rights. The body of *De translatione Imperii* collects and addresses the historical evidence

⁶⁵ Marsilius of Padua, *Defensor pacis* I.xiii.8.

⁶⁶ Marsilius of Padua, *Defensor pacis* I.xii.6.

that such a series of just transfers in fact occurred. Obviously, this treatise directly supported the assertions of the advocates of the then German emperor Ludwig the Bavarian that the latter did not require the pope's authorization to exercise the imperial prerogatives.

Sometime between 1339 and 1341, shortly before his death, Marsilius penned his final work, the *Defensor minor*, a summary and extension of the political teachings of *Defensor pacis*. The text of the *Defensor minor* also included several short, separately composed works of advice to Ludwig the Bavarian with regard to the legitimacy of his son's dynastic marriage to an important German noblewoman, whose own first marriage ended in annulment. Be that as it may, the *Defensor minor* concentrates upon the relationship between earthly jurisdiction and spiritual authority, and more specifically upon the situation of the empire. This does not, however, signal a departure from the *Defensor pacis*. Rather, the *Defensor minor* demonstrates how the political theory of the *Defensor pacis* applies in the case of an imperial regime, as distinct from a city or kingdom. Marsilius contends that the Roman Empire, no less than any other earthly polity, has an independent foundation stemming from the consent of its own citizen body and, hence, its own functions and responsibilities as assigned to it by citizens. The papacy enjoys no greater right to interfere in the affairs of the empire than it does to intervene in any other form of political association. The *Defensor minor* thus renders the doctrines of the *Defensor pacis* directly relevant to the unique circumstances of imperial government.

The characteristic doctrines of the *Defensor pacis* are thus re-encountered in the *Defensor minor*. Marsilius' conceptions of the well-ordered *civitas* and the general council, as well as his critique of papal power, all play a central role in the *Defensor minor*. Yet the latter work is not just a restatement of the earlier one. If only because the *Defensor minor* operates at a greater level of specificity than the *Defensor pacis*, it erases some of the ambiguities present in the earlier work and affords us greater insight into Marsilius' fundamental and intellectual political commitments.

For example, the *Defensor minor* explicates with greater precision the foundation of law for Marsilius. As in the *Defensor pacis*, the *Defensor minor* argues that there are two basic kinds of law: divine law, ordained by God who, along with His son, judges in accordance with it; and human law, established by the citizen body and imposed

by those person to whom the community assigns the judicial role.⁶⁷ Because Marsilius insists so adamantly in the *Defensor pacis* that no human law merits obedience which has not first been expressly authorized by citizens, he has sometimes been understood to advocate the idea of "legal positivism," that is, the notion that the essential ingredient in the legitimacy of a statute is its *de facto* enactment by the state.

Marsilius explicitly denies this implication in the *Defensor minor*, however. Instead, he proclaims that human and divine laws should be consistent and mutually reinforcing: God-given law decrees obedience to all human legislation which is not incompatible within divine dictates;⁶⁸ human law must promulgate nothing that conflicts with God's will. He adds that, should a case arise in which some human statute commands what is opposed to divine law, the latter takes absolute precedence over the former.⁶⁹ Marsilius thus embraces a version of the traditional Christian doctrine that all duly ordained human power must be obeyed unless its commands conflict with God's law, at which time the Christian must refuse to submit. In this sense, if one recalls the earlier observation regarding Marsilius' reliance upon the traditional Christian texts of the Gospel of John and Paul's Letter to the Romans, Marsilius' political theory is well within Christian boundaries. However, as suggested earlier, his theory is highly nuanced, for Marsilius revises prominent features of the doctrine of Christian obedience: it pertains not to priests or prelates to decree such resistance—inasmuch as they may only advise but never command—but the individual believer is to decide for himself. In turn, since human law is an emanation of the whole civic community itself, it seems unlikely that such conflicts of divine with temporal law will emerge in the first place, since the citizen body is coextensive with the body of the faithful.

When considering all of Marsilius' works together, a fully integrated and rich theory of politics arises. It is a theory with a precise and clear conception of the temporal realm of politics, the ruler, the human legislator, the status of law, and of the place of religion and the clergy within it. It is a brilliantly constructed theory grounded upon not

⁶⁷ Marsilius of Padua, *Defensor minor* I.2–6.

⁶⁸ Marsilius of Padua, *Defensor minor* VIII.3–5.

⁶⁹ Marsilius of Padua, *Defensor minor* XIII.3–9.

only a wide assortment of classical and religious texts but also, most importantly, the commonality of human reason. It is thus no surprise that most of its critics attacked Marsilius on theological grounds. The task would have been nearly impossible if advanced on purely rational grounds. There Marsilius would have clearly been the victor.

CHAPTER FIVE

MARSILIUS OF PADUA ON CHURCH AND STATE¹

Bettina Koch

The relationship between religion and secular power is the major theme running through Marsilius' *Defensor pacis*. Despite the fact that Marsilius' ecclesiology is a major subject of the *Defensor pacis*, as well as the topic that received the most attention from contemporaries and in subsequent centuries, recent scholarly interest in Marsilius' work remains focused above all on his secular thinking, which is developed particularly in Discourse I of the *Defensor pacis*.² This imbalance between historical relevance and the interests of academic research has meant that, despite the extensive research literature on Marsilius of Padua and his work, there are not many studies, especially monographs, explicitly dealing with the relationship between the Church and the secular state. Even research on related aspects, such as the poverty controversy, does not represent a major area of focus in Marsilius scholarship.³

¹ This chapter relies heavily on my book: Bettina Koch, *Zur Dis-/Kontinuität mittelalterlichen politischen Denkens in der neuzeitlichen politischen Theorie: Marsilius von Padua, Johannes Althusius und Thomas Hobbes im Vergleich*, Beiträge zur Politischen Wissenschaft 137 (Berlin, 2005).

² On the question of the historical significance of the ecclesiological program, see in particular the contribution of Thomas Izbicki in this volume. The widespread concentration of research on Discourse I of the *Defensor pacis* is also explained by the fact that the authorship of Discourses II and III was disputed for a long time, and John of Jandun was regarded at least as co-author. Since Richard Scholz's critical edition of the *Defensor pacis*, however, the sole authorship of Marsilius has been beyond question. See Richard Scholz, "Einleitung," in Marsilius of Padua, *Defensor pacis*, ed. Richard Scholz, 2 vols, Monumenta Germaniae Historiae LL 8, Fontes iuris Germanici antiqui in usum scholarum separatim editi (Hanover, 1932–33), pp. li–lxi.

³ Monographs which should be mentioned in particular are: Michael Löffelberger, *Marsilius von Padua: Das Verhältnis zwischen Kirche und Staat im "Defensor pacis,"* Schriften zur Rechtsgeschichte 57 (Berlin, 1992); and Stephen F. Torracco, *Priests as Physicians of Souls in Marsilius of Padua's Defensor Pacis* (San Francisco, 1992). Neither work has received much attention from scholars. On some individual aspects, the section on "Temporality and Religion," in *The World of Marsilius of Padua*, ed. Gerson Moreno-Riaño (Turnhout, 2006), gives a good overview. Regarding the significance of the poverty controversy for Marsilius' theory, see Kerry E. Spiers, "The Ecclesiastical

Yet the subject is essential for understanding Marsilius' theory; it assumes concrete form in the relationship between spiritual and temporal power and the opposition between pope and emperor, *imperium* and *sacerdotium*. This not only constitutes the core of Marsilius' theory but also is an issue that determined the conflict between spiritual and temporal power for centuries, though not always with the same level of intensity. Marsilius' treatment of the relationship between spiritual and temporal power has repercussions on many levels that inform the structure of this chapter.

Part 1 of this chapter outlines Marsilius' analysis of the problem, in which he introduces his readers to three enemies opposed to his doctrine. Individual points of conflict will then be analyzed in detail. These will relate in Part 2 to jurisdiction and rulership and in Part 3 to the role and duties of bishops and priests. With the aim of highlighting Marsilius' position more clearly, each specific issue will first be presented, and then Marsilius' solutions explained, in which he repositions the role of the Church and priests. This analytical approach means alluding to central theories from Discourse I,⁴ as these principles are brought to bear in Marsilius' dispute with the Church's ecclesiological program. Marsilius' conciliar theory is given a central role in this account in Part 4, on the grounds that the council is the institution in his theory that serves to mediate between temporal rulership and the newly defined papal power.

Even though the following remarks relate primarily to the *Defensor pacis*, the further development and refinement of Marsilius' theory, elaborated in particular in his later work the *Defensor minor*, will also form part of this chapter. The conclusion will look at Marsilius' overarching theory in relation to the question of whether the salvation of Christian believers can be regarded as an end of secular rule.

Poverty Theory of Marsilius of Padua: Sources and Significance," *Il Pensiero Politico* 10 (1977), 3–21; and Conal Condren, "Rhetoric, Historiography and Political Theory: Some Aspects on the Poverty Controversy Reconsidered," *Journal of Religious History* 13 (1984), 15–34. In addition, some older works have taken up the problem of the relationship between spiritual and temporal power in the *Defensor pacis*: Bettina Geissel, *Die kirchenpolitische Lehre des Marsilius von Padua: Ein Beitrag zur Kenntnis seines Staatskirchentums* (Cologne, 1926). W. Schneider-Windmüller, *Staat und Kirche im Defensor Pacis des Marsilius von Padua* (Bonn, 1934) is of doubtful value, since the author attempts to claim Marsilius for National Socialist ideology.

⁴ On this, see also the chapter by Cary J. Nederman and Gerson Moreno-Riaño in this volume, in which Marsilius' secular theory is discussed.

1. THE PROBLEM: *INIUSTITITA DESPOTIA SUPER CHRISTI FIDELES*

The relationship between the Church and the secular state permeates Marsilius' *Defensor pacis* from the first chapter of Discourse I until the end of Discourse III. Following his definition of peace and tranquility (*pax et tranquillitas*) as the prerequisites for the good political life,⁵ Marsilius sets out the causes that disrupt public order. He identifies the main reason for the existing discord in one cause, of which Aristotle was not (and could not have been) aware. He describes this cause as a creeping disease that has already afflicted the Roman Empire for a long time and still continues to spread. Marsilius calls the disease the aftermath of a miraculous effect.⁶ This miraculous effect refers to the Incarnation of Christ. But the Incarnation as such is not the problem, as far as Marsilius is concerned. Indeed, he wants to follow the example of Christ and reveal the truth according to his teachings, which will serve both the civil good and salvation.⁷ The cause of this creeping disease, which Marsilius also calls pestilence (*pestis*) and which opposes his aims and doctrine, is mentioned several times at the beginning of the *Defensor pacis* but never explicitly named.

This changes at the beginning of Discourse II, where Marsilius introduces his readers to three enemies who oppose or might oppose his doctrine. He identifies the first enemy as the Roman bishops and their accomplices. The identification of this first enemy also serves to highlight the target of his criticisms and his theory, namely, the present conduct of the curia and priests. Marsilius regards the second enemy, which like the first relates to his main theme, as the habit of listening to falsehoods. Falsehoods are, at least from Marsilius' point of view, disseminated in the utterances and writings of priests and the curia. The content of these false doctrines is the divine and human viewpoint on human actions. Marsilius speaks of an "unjust despotism over Christian believers" (*iniustitita despotia super Christi fideles*).⁸ He sees the main substance of these false doctrines in the assumption of the curia and priests that

⁵ Marsilius of Padua, *Defensor pacis* I.i.1.

⁶ Marsilius of Padua, *Defensor pacis* I.i.3.

⁷ Marsilius of Padua, *Defensor pacis* I.i.5.

⁸ Marsilius of Padua, *Defensor pacis* II.i.1.

to the Roman bishop rightfully belongs the highest of all coercive jurisdictions or rulerships, especially in the dominion of the Law of the Christians, over the Roman ruler and all other governments, communities, collegia, and individual, even over laymen, and even more over priests or bishops and deacons, and their collegia, and individuals, of whatever rank they may be.⁹

By the time he identifies the second enemy, it also becomes clear what Marsilius meant by the aftermath of the miraculous effect mentioned at the beginning of Discourse I. He attributes the prevailing strife above all to the unjust appropriation of rulership by bishops and priests. The identification of this enemy, moreover, reveals the main theme of the *Defensor pacis*, which is the relationship between spiritual and temporal power. The third enemy that Marsilius says is opposed to his doctrine is of lesser importance in comparison. He locates this enemy in the envy and resentment of those who, although they agree with his doctrine, still reject it and attempt to destroy it with all their strength because Marsilius, rather than they themselves, thought of it.¹⁰ This third enemy, which is mentioned here for the sake of completeness, probably reveals more about the personality of a fourteenth-century intellectual rather than anything truly relevant to the further exposition of the relationship between spiritual and temporal power.

Marsilius' analysis does not confine itself just to naming the three enemies of his doctrine and outlining the disease which causes danger to the peace and which has already partly destroyed it because of a misinterpretation of Christian doctrine. Indeed, Marsilius accuses the pope, whom he usually calls the Roman bishop, and the curia not only of having illegitimately appropriated temporal power but, moreover, of trying to extend this power ever further. He sees a deliberately conceived strategy behind the conduct of the pope and the curia. He discerns a plan behind papal power politics to bring under the pope's

⁹ Marsilius of Padua, *Defensor pacis* II.i.3: "...quibus fortasse videratur posse convinci Romanorum episcopo iure deberi supremam omnium coactivarum iurisdictionum *seu* principatus in lege Christianorum presertim, tam supra Romanorum principem quam reliquos omnes principatus, communitates, collegia et personas singulares, eciam seculares, eoque magis supra presbyteros seu episcopos, diaconos ipsorum collegia et singulares personas, cuiuscumque condicionis existant." English quotations from the *Defensor Pacis* are taken from the translation by Alan Gewirth: Marsilius of Padua, *The Defender of Peace* (New York, 2001). Occasionally, however, Gewirth's translations have been modified for means of adjustment to the Scholze edition and to eliminate obvious mistakes.

¹⁰ Marsilius of Padua, *Defensor pacis* II.i.1.

control all those sovereign states not already subject to him. In pursuing this plan, the Roman bishop applies the practice of removing from office rulers who do not meet with his approval, either through excommunication or by not even recognizing them in the first place.¹¹ Marsilius also accuses the pope of worming his way into other states with the aim of finally being able to dominate them.¹² The Roman bishop achieves this, on the one hand, by bestowing ecclesiastical offices and promising the transfer of worldly goods and benefices. On the other hand, he promises to give his support to any given government in order to dominate it later on. In addition, in pursuing his objective the pope stirs up one state against one another and the governed against their governments. His aim is to weaken these states so that later they can be brought under his power more easily. Under the mask of piety and mercifulness, the pope also offers his help in disputes, but only when he can be sure that the state seeking his aid will afterwards be subject to his power.¹³

But the consequences of the Roman bishop's conduct for Marsilius are not only confined to igniting this or that "civil war" or power struggle between rival states, which thus partly facilitates their destruction. A much graver effect is that this results in endangering the eternal life of Christians:

Whereby the Roman bishop brings about the eternal destruction of "all Christ's sheep," who he says were entrusted to him that he might pasture them with salutary doctrine. For again putting "good for evil and light for darkness," he has issued oral and written pronouncements "absolving from all guilt and punishment" every soldier, in cavalry or in infantry, that has waged war at a certain time against those Christian believers who maintain steadfast and resolute subjection and obedience to the Roman ruler.¹⁴

¹¹ On the accusations levelled by Marsilius against the curia, see Geissel, *Die kirchenpolitische Lehre des Marsilius von Padua*, pp. 20–28.

¹² Marsilius of Padua, *Defensor pacis* II.xxvi.15.

¹³ Marsilius of Padua, *Defensor pacis* II.xxvi.14.

¹⁴ Marsilius of Padua, *Defensor pacis* II.xxvi.16: "...quod videlicet Romanus exercens episcopus *omnes Christi oves*, quas ad pascendum salutari doctrina sibi dicit fore commissas, eternaliter confundit et devorat. Ponens enim rursum *malum bonum et lucem tenebras*, concedit ipse vocaliter et in scriptis *absolucionem culpe ac pene cuiuslibet* militantibus omnibus tempore certo, equitibus aut peditibus adversus iam dictos Christi fideles, Romano principi subiectos et constanter illi tamquam regi obediens et obedire volentes..."

It is clear from this quotation that Marsilius' analysis of the problem is not aimed solely at the curia's arrogation of temporal power, which represents a political problem in the narrower sense, but encompasses the salvation of the faithful as well. The problems referred to in this overview will now be discussed in detail.

2. JURISDICTION AND RULERSHIP

For Marsilius, there is no escaping not only the idea but the historical reality that the curia exercises temporal rulership and jurisdictional functions and also influences appointments to the imperial throne. Bearing in mind the actual background, which is fundamental to an analysis of his work, it is worth noting in this context that Marsilius does not refer to specific features of the politics of popes such as Boniface VIII and John XXII.¹⁵ His reserved approach to making specific contemporary references should not, however, be exaggerated beyond its true significance. In fact, this reservation highlights Marsilius' claim that his doctrine is not merely a response to a contemporary problem but also amounts at the same time to the formulation of a general theory that will retain its importance beyond his own age and establish his standing in the history of political ideas.

While Marsilius, refers (often indirectly) to papal bulls and decretals, he hardly ever mentions these popes by name. Yet it is their specific claim to plenitude of power that lies behind his reasoning and polemical arguments.¹⁶ These are fully developed in his attack on the papal position. The papal claim to plenitude of power (*plenitudo potestatis*) is discussed by Marsilius in great detail and is the subject of several chapters of the *Defensor pacis*. He does not confine himself in this task to a simple refutation of the papal claim to plenitude of power but also traces the origins of this theory. This approach is part of Marsilius'

¹⁵ Marsilius is usually extremely reserved in making specific references to contemporary events. He almost never mentions the names of Popes Boniface VIII and John XXII. One of the few exceptions to this is the excommunication of Philip the Fair by Boniface. See Marsilius of Padua, *Defensor pacis* I.xix.10 and II.xxi.9. At the same time, Marsilius refers on several occasions to the decretals and bulls of Boniface and John.

¹⁶ The papal claim to plenitude of power attains its most pronounced expression in the bull *Unam Sanctam* of Boniface VIII in 1302. A critical edition with German translation is published in Dante Alighieri, *Monarchia*, ed. Ruedi Imbach and Christoph Flüeler (Stuttgart, 1989), pp. 348–55.

strategy of refutation in which he refers several times to early Christianity, thus employing a method of argumentation frequently resorted to by medieval authors. For example, it is typical for medieval reform movements to argue that Christianity had moved away from a condition originally seen as good. *Reformatio* in this sense means restoration, not renewal. Although it is not rigorously applied, Marsilius' argumentation concerning the erroneous developments within the Church follows precisely this method.¹⁷ His use of it is based not solely on historical facts but also on shifts in the meaning of the key terms. In the second chapter of Discourse II, he illustrates this using the terms *ecclesia*, *iudex*, *spirituale*, and *temporale*.¹⁸ Even though Marsilius' detailed exposition of various points of view and meanings, each of which he discards until at the end only one remains, is somewhat laborious for the modern reader, his understanding of these terms is fundamental to his understanding of the relationship between the Church and temporal power and must necessarily concern us.

Ecclesia, Iudex, Spirituale, Temporale

"Those who are ignorant of the force of words misreason both in their own discussions and when listening to others."¹⁹ Even if one were to agree with this axiom without further debate, Marsilius' examination of the meaning of words does not serve its ostensible purpose alone. In fact, Marsilius' aim is to use such an examination to find out whether or not priests, the pope, and other bishops and deacons can be coercive judges over temporal and spiritual affairs. Subordinating his analysis of the terms to this purpose does not necessarily serve to produce intellectual clarity; instead, the analysis itself becomes part of the argument.

After showing the derivation of the term *ecclesia* from Greek and setting out its meaning to the Romans, he explains that *ecclesia* is also

¹⁷ In this regard, Marsilius also considers correct the assumption made by Adelard of Bath as early as the twelfth century regarding contemporary intellectuals. Adelard is not sure, as Jacques Le Goff, *Die Intellektuellen im Mittelalter* (Munich, 1994), p. 61, explains, whether this did not serve the name of the Arabs and the ancients, so that those "die gewohnt waren, sich nach Autoritäten zu richten, [...] ihre Verwegenheit eher durchgehen ließen."

¹⁸ Marsilius of Padua, *Defensor pacis* II.ii.1.

¹⁹ Marsilius of Padua, *Defensor pacis* II.ii.1: "Qui virtutis nominum sunt ignari, paralogizantur, et ipsi disputantes et alios audientes." Marsilius is citing here Aristotle, *On Sophistical Refutations* 165a15–17.

understood in the sense of all believers worshipping together in a temple. In addition, the term also refers only to those believers who carry out a leading function in the principal church. In this sense, *ecclesia* means the Roman curia. But Marsilius discovers what he understands as the true meaning of *ecclesia* in the apostles and the primitive Church, though he admits that this meaning is less familiar and does not correspond with current usage. According to the early Christian and apostolic meaning, *ecclesia* means the whole body of Christian believers. *Ecclesia* in this sense does not refer to any particular institutionalized church of any kind whatsoever but embraces the whole body of all communities who come together in the name of Christ.²⁰ The idea of the *ecclesia* as the *universitas fidelium* thus corresponds, even though Marsilius does not explicitly draw the comparison at this point, to his understanding of the community of citizens, the *universitas civium*. The terms *temporal* and *spiritual* are less controversial for Marsilius, at least initially. In a general sense, *temporal* means everything which begins and ends in time. In a narrower sense, Marsilius refers *temporal* to all voluntary human actions which, insofar as they lead to benefit or harm to someone, are the subject of human law-making.

Marsilius interprets *spiritual* in an analogous sense: the spiritual refers primarily to everything that is incorporeal. In a narrower sense, *spiritual* refers to divine law and to the teachings in the divine commandments. In this signification, *spiritual* refers to the eternal life. Marsilius in turn considers his interpretation to be in accordance with apostolic usage. However, *spiritual* is also used in a frame of reference similar to that already expounded and rejected by Marsilius for the narrow meanings of *ecclesia*. Here *spiritual* can refer, on the one hand, to the actions of priests and bishops and, on the other, to the income of the Church, its tithes, and its moveable goods. But, for Marsilius, these interpretations do not correspond either to the truth or the usage of the Apostle Paul and the saints. Indeed, Marsilius claims that this amounts to an abuse of the word, citing a number of patristic

²⁰ Marsilius of Padua, *Defensor pacis* II.ii.3: "Rursum, secundum aliam significationem dicitur hoc nomen *ecclesia*, et omnium verissime ac propriissime secundum primam impositionem huius nominis seu intencionem primorum imponencium, licet non ita famose seu secundum modernum usum, de universitate fidelium credentium et invocancium nomen Christi, et de huius universitatis partibus omnibus, in quacunque communitate, eciam domestica."

authorities, including Ambrose, who attribute the tithes and possessions of the Church to the satisfaction of carnal needs.²¹

In this sense, Marsilius does not regard all actions of priests as *spiritual* either. Indeed, all actions carried out by priests concerning temporal affairs are civil matters and thus subject to secular jurisdiction. Just as with all other individuals who are not members of the clergy, priests can “lend at interest, deposit, buy, sell, strike, kill, steal, commit adultery, rob with violence, betray, deceive, bear false witness, defame, fall into heresy, and commit other outrages, crimes, and contentious acts such as are perpetrated also by non-priests.”²² The facts that clergy may also carry out temporal actions and that envy and disputes arise among priests as well as between priests and laymen prove to Marsilius that these temporal actions must be subject to temporal law. He finds support for his position in the existence of the decretals, since these were enacted by the popes in order to free the world of such disputes. The fundamental criterion for Marsilius is that temporal actions bring benefit and harm to individuals and may inflict harm on another in this world: “And therefore human law must be the measure of such actions.”²³ Human law (*lex humana*) is distinct from divine law (*lex divina*). This differentiation was already evident in Marsilius’ definitions of temporal and spiritual. It is central to Marsilius’ doctrine in this context that he ascribes to transient human beings a sphere of action that must be clearly distinguished from the role and area of application of divine law. Human law refers to actions in this world which might cause harm to someone else and which can be punished by law; its application is to the present life alone. In contrast, the commandments of divine law refer to the future life, yet their stipulations also affect the present life, since they influence human acts; our conscious mind is controlled by obedience to divine law, but it inflicts coercive power only in the afterlife.²⁴

²¹ Marsilius of Padua, *Defensor pacis* II.ii.4–6.

²² Marsilius of Padua, *Defensor pacis* II.ii.7: “Possunt enim ipsi mutare, desonere, emere, vendere, percutere, occidere, furari, mechari, rapere, prodere, decipere falsum testimonium perhibere, diffamare, in heresim cadere ceteraque committere scelera, crimina et contenciones, quemadmodum, eciam a non sacerdotibus perpetrantur.”

²³ Marsilius of Padua, *Defensor pacis* II.ii.7: “Et ideo talium mensura debet esse humana lex.” Marsilius himself provides the reference to his doctrine in I.xv.4. There he argues in favour of the primacy of the law. This function of the law becomes clearer in I.xi.4 and I.xii.

²⁴ Marsilius of Padua, *Defensor pacis* II.viii.5.

The different spheres of application of human and divine law mean that when Marsilius speaks of *iudex* he means only that judge who judges according to human law.²⁵ This person he defines as one who “has the authority to judge concerning the just and beneficial in accordance with the laws or customs, and to command and execute through coercive force the sentences made by him.”²⁶ The secular judge issues his judgments on the basis of human law alone. On the other hand, it behooves the Judge of the world to come to judge in accordance with the divine law. Unlike the human judge, the Judge of eternity does not judge in this world.

Coercive Jurisdiction and Rulership of Bishops and Priests?

It should be clear by now from his definitions of *ecclesia*, *iudex*, *spirituale*, and *temporale* that Marsilius does not allow the papal decretals to have coercive force of law in this world. Given that the Judge of the next world does not judge in accordance with the papal decretals, Marsilius argues that these cannot be accorded any jurisdictional significance either, and for that reason he makes the clergy subject to human law. The clergy nevertheless claim both coercive rulership and temporal (as well as spiritual) legislative powers. Marsilius therefore first addresses the curia’s arguments so that he can then refute them using the canonical writings,²⁷ the Apostles, the saints, and the Church

²⁵ What is noteworthy about Marsilius’ argument concerning the sphere of application of divine and human law is that he does not grant natural law a place of its own, despite the significance of natural law discourse in medieval political theory. He does not place the subject matter of natural law either in human or divine law. On this, see Koch, *Zur Dis-/Kontinuität mittelalterlichen politischen Denkens in der neuzeitlichen politischen Theorie*, pp. 196–98.

²⁶ Marsilius of Padua, *Defensor pacis* II.ii.8: “...cuius siquidem auctoritas est iudicare de iustis et conferentibus secundum leges aut consuetudines latasque per opum sententias precipiendi et exequendi per potenciam coactivam.”

²⁷ Just as with other key terms previously mentioned, Marsilius also diverges from the common opinion in his understanding of what constitutes the canonical writings, and he represents a position with clear similarities to the reformist view. It is clear to him that he cannot allow all theological writings the same truth claim. In his view, neither the writings of the Church Fathers, nor the witnesses of canon law, nor other texts written by the curia, are canonical in the strict sense. The only canonical writing for Marsilius is Holy Scripture (*Defensor pacis* II.xix.2; II.xix.4), for only it is given directly by God. All Christians must believe only in this. In determining which writings are to be regarded as canonical, Marsilius invokes Augustine, among others; *Defensor pacis* II.xix.6: “Intellexit ergo beatus Augustinus per canonicas scripturas eas solas, que in volumine Bible continentur, non quidem decretales aut decreta Romani pontificis et suorum collegii clericorum, quos *cardinales* appellant: neque alia quevis

Fathers. Thus, the papacy's claim to temporal jurisdiction applies not only to the clergy or believers in ecclesiastical affairs but to all clergy and laymen irrespective of their status. Nor is this claim restricted to private individuals; it also extends over rulers, communities, and groups, and hence to power over states (kingdoms, communes, and the empire) as well.²⁸ In terms of actual historical events, this claim comes particularly to the fore when the papal curia disagrees with the choice of candidate, as in the case of Ludwig the Bavarian or Phillip the Fair of France, and not only threatens the candidate with excommunication but also includes his followers and the populations in question in the anathema.

For its part, the papacy argues that Christ transferred the power of the keys to Peter (Matt. 16:19). Accordingly, the popes, as successors in the office of St Peter, are accorded the power to bind and loose, and hence dominion over the whole of humanity. The claim to the exercise of power in this world is also backed up by Matt. 28:18 ("All power is given to me in heaven and in earth").²⁹ In addition to a number of the curia's other arguments cited by Marsilius, he also refers to the so-called two-sword doctrine derived from Luke 22:38. The two swords are interpreted as representing the two powers, one of which is the sword of temporal power belonging to St Peter and to the popes as his successors. The curia infers from this that temporal power first receives its legitimacy from the Church and is subordinate to it. If a temporal ruler commits a sin or impedes the Church from exercising its rights, the pope lays claim to the right to depose him. Furthermore, it is argued that not only the highest authority belongs to the Church, but also jurisdiction over all Christians and worldly goods. This leads to the contention that the Roman bishop alone is entitled to supreme rulership, which he rightly claims and exercises.³⁰

humana statuta, de humanis actibus aut contencionibus et humano spiritu adinventu." Referring to the Third Council of Carthage, Marsilius (*Defensor pacis* II.xix.7) proves that Augustine's position, which he follows, also corresponded to historical practice. In defending this position, Marsilius at the same time denies any value to canon law. See also Joseph Canning, *A History of Medieval Political Thought 300–1450* (London, 1996), p. 156.

²⁸ Marsilius of Padua, *Defensor pacis* II.iii.1.

²⁹ Marsilius of Padua, *Defensor pacis* II.iii.2–5.

³⁰ Marsilius of Padua, *Defensor pacis* II.iii.6–9. The lines of conflict with the contrary position which had evolved since the Investiture Contest and which inform the bull *Unam Sanctam* mentioned above, though Marsilius does not explicitly mention it, are traced in Karl Ubl, "Die Genese der Bulle *Unam Sanctam*: Anlass, Vorlagen,

As well as these standpoints based on citations from Holy Scripture, Marsilius cites a series of further arguments which, taken together, not only afford a good summary of the papal position but equally illustrate medieval, particularly later medieval, methods of argumentation. The central argument is a variant of the organic metaphor, according to which the composition of the body is used to personify the structure of a state. Although the organic metaphor was not originally medieval, it attained its greatest impact during the medieval period. This metaphor remains most evident in the minute dissection to which it is subjected in John of Salisbury's *Policraticus*. What matters for our purposes is that, in John's adaptation of the organic analogy, the clergy are assigned to the soul and temporal rulership to the head. John deduces from this image that the soul stimulates the body and, as a consequence, the head, too.³¹ This reading is also relevant to Marsilius' other comments. Contrary to John's interpretation, which ultimately proceeds from the assumption of two separate spheres, the papacy during Marsilius' lifetime assumes the dominance of the soul. The body, and thus all temporal rulership, is subordinate to the soul, represented by the clergy. According to the papal standpoint, not only all temporal power but all jurisdiction is subordinate to the soul (the clergy). This position is based not just on the rulership of the soul over the body but likewise on the different ends of humans as opposed to divine and ecclesiastical law. The end of the latter is eternal life, whereas the former is directed at the rule of power in this world.³²

Furthermore, Marsilius introduces arguments that relate to honor. The most honorable act is deemed the sacred transformation performed

Intention," in *Politische Reflexion in der Welt des Mittelalters/Political Thought in the Age of Scholasticism: Essays in Honour of Jürgen Miethke*, ed. Martin Kaufhold, *Studies in Medieval and Reformation Traditions* 103 (Leiden, 2004), pp. 129–49.

³¹ The best overview of the medieval organic metaphor is still to be found in Tilman Struve, *Die Entwicklung der organologischen Staatsauffassung im Mittelalter*, *Monographien zur Geschichte des Mittelalters* 16 (Stuttgart, 1978). The most well-known elaboration of the medieval organic metaphor is by John of Salisbury, *Policraticus sive de nvgis cvrialivm et vestigiis philosophorum*, 2 vols, ed. Clement C.J. Webb (repr. of the 1909 edition; Frankfurt am Main, 1965), V.2. For an English translation of extracts, see John of Salisbury, *Policraticus: Of the Frivolities of Courtiers and the Footprints of Philosophers*, ed. and trans. Cary J. Nederman (Cambridge, 1990). For an excellent analysis of John's organic metaphor, see Cary J. Nederman, "The Physiological Significance of the Organic Metaphor in John of Salisbury's *Policraticus*," *History of Political Thought* 8 (1987), 211–23; Cary J. Nederman, *John of Salisbury* (Tempe, AZ, 2005), pp. 57–58.

³² Marsilius of Padua, *Defensor pacis* II.iii.10–12.

by priests and bishops during mass. The Church infers from this that any priest is more honorable and worthy than any layman. It thus follows that a layman cannot be entitled to jurisdiction over a cleric. In this sense, the Roman emperor is also subordinate to the Church in jurisdiction and in terms of his investiture. For this reason, the Church does not recognize any sentence enunciated by a secular judge over a member of the clergy. The conclusion appears unavoidable that the highest coercive jurisdiction belongs to the Roman bishop alone, given that there cannot be a plurality of governments disputing the supreme rulership in one state. This could threaten the existence of the state, as Marsilius himself demonstrates in Discourse I of the *Defensor pacis*, which will be dealt with at greater length in the next section.³³ These proofs brought forward by the Church are, however, only apparent proofs as far as Marsilius is concerned, as he sets out to demonstrate in the following two chapters.³⁴

Marsilius' refutation of the papal position extends to his own use of the organic metaphor in Discourse I, one in which, however, the functions of the body are ordered altogether differently from the metaphor found in John of Salisbury or in the arguments of the curia. The clergy do not even figure as representatives of a specific organ or body part in Marsilius' version. Even though Marsilius does not fully develop the organic metaphor, it is still of interest in this context because it refers both to the jurisdiction and the rulership under discussion here. Following Aristotle and Galen, Marsilius proceeds from a primary moving cause which he identifies with the legislator. Yet he does not consider the legislator to be either a temporal or a spiritual ruler but rather the whole body of citizens (*universitas civium*) or its weightier part (*valentior pars*).³⁵ This primary moving cause is equated by Marsilius in the *Defensor pacis* with the soul in a living thing. In contrast, the executive power in Marsilius' theory is symbolized by the function of the heart and corresponds to the government in a political

³³ Marsilius of Padua, *Defensor pacis* I.xvii.1–9.

³⁴ Marsilius of Padua, *Defensor pacis* II.iii.13–15.

³⁵ In his later work, the *Defensor minor*, which focuses much more heavily than the *Defensor pacis* on the function of the Roman emperor, Marsilius diverges from this position and assigns the function of *legislator humanus* to the *rex Romanorum*. Marsilius of Padua, *Defensor minor*, I.7, in Marsilius of Padua, *Œuvre mineures: Defensor minor. De translatione Imperii*, ed. Colette Jeudy and Jeannine Quillet (Paris, 1979). For an English translation, see Marsilius of Padua, *Writings on the Empire: Defensor minor and De translatione Imperii*, ed. Cary J. Nederman (Cambridge, 1993).

state. Although Marsilius also ascribes to the government a regulatory function, it may only exercise that within the parameters determined by the whole body of citizens as legislator.³⁶

It is apparent just from the perspective of Marsilius' adaptation of the organic metaphor that he is bound to oppose the curia's claim to jurisdiction. Although in Discourse I he had already demonstrated the subordination of the clergy to temporal power based on philosophical arguments, he resumes this proof in Discourse II with recourse to Scripture and the utterances of the saints and the apostles. He thus sets out to provide in the same argumentative language as that used by the papacy a new proof for his thesis, which he defines as follows: "Neither the Roman bishop, called pope, nor any other bishop or priest, or deacon, has or ought to have any rulership or coercive judgement or jurisdiction over any priest or non-priest, ruler, community, collegium, or individual of whatever rank..."³⁷ Marsilius seeks to substantiate this position by examining what authority Christ bestowed and wanted to bestow on bishops and priests in this world. He is not explicitly concerned with what power Christ could have bestowed on priests and bishops, since as far as he is concerned the only priestly authority binding upon believers is that explicitly derived from Scripture. This method of argument, which is nowadays found overwhelmingly in fundamentalist camps, ought to be interpreted as anti-fundamentalist in Marsilius' case. Marsilius pursues his objective in part through giving repeated proofs meant to show that Christ did not come into the world to exercise temporal rule or jurisdictional power but, rather, that Christ subjected himself in the present world to temporal power.³⁸ Marsilius next adduces the proof that not only did Christ submit himself to temporal power but also that such submission also applies to all bishops and priests. But there is one qualification to this submission: it applies insofar as worldly goods are concerned, but it does not apply to matters of faith.³⁹

³⁶ Marsilius of Padua, *Defensor pacis* I.xv.4–7.

³⁷ Marsilius of Padua, *Defensor pacis* II.iv.1: "Romanorum episcopum, vocatum papam, aut aliorum quemlibet episcopum seu presbyterum vel diaconum nullum habere aut habere debere principatum seu iudicium vel iurisdictionem coactivam cuiusquam sacerdotis aut non sacerdotis, principantis, communitatis, collegii, vel persone singularis alicuius, cuiuscumque condicionis existat..."

³⁸ Marsilius of Padua, *Defensor pacis* II.iv.2–8.

³⁹ Marsilius of Padua, *Defensor pacis* II.iv.9–13. On the qualification relating to faith, see II.iv.9.

Marsilius does not, therefore, confine himself to refuting the clergy's claim to plenitude of power and demonstrating submission to temporal power using arguments from Scripture and the utterances of the saints and the apostles. Instead, he goes a step further in arguing that priests ought not to carry out any worldly affairs and especially should not exercise the office of judge. If they were to be admitted to the office of judge, they would disturb someone else's office.⁴⁰ The question addressed here by Marsilius becomes particularly clear when one realizes what consequences Marsilius foresees for a state as soon as two governments coexist, when each of which affirms its supremacy within a given state.

Two Governments

"For when there are two coercive dominions in respect of the same multitude, and neither is subordinated to the other, they impede one another."⁴¹ This statement from Discourse II is ingrained in Marsilius' refutation of all claims to worldly dominion by the curia or the clergy in general. It ends with an explicit reference to his treatment of this issue in Discourse I, where, although he deals with the papacy's claim to power in a general way without referring to it explicitly, it is still apparent in his general comments that his overall target is that claim. But this is not Marsilius' sole concern; for him, the question of the unity of government is at stake. By this he means not only that the supreme government must be one entity to which every other form of exercise of rule is subordinated but also that it is necessary for government to exist. A state without government cannot last, in his opinion, for this would be like a living thing trying to live without a heart, which is impossible, as explained above.⁴² Yet he identifies the real cause of the inevitable collapse of the state less in the failure of the organism than in the consequences brought about by competing claims to supremacy. The resulting violations of the law and disputes,

⁴⁰ Marsilius of Padua, *Defensor pacis* II.v.2.

⁴¹ Marsilius of Padua, *Defensor pacis* II.iv.5: "Duo namque coactiva dominia non subinvicem posita *ac respectu eiusdem multitudinis* se impediunt."

⁴² Marsilius of Padua, *Defensor pacis* I.xv.13. Although Marsilius does not exclude the possibility of removing an unsuitable ruler, he nevertheless recommends exercising extreme caution in doing so and not resorting to this means too frequently on minor pretexts, since changing the ruler frequently can be just as damaging for the state and can jeopardize its stability as much as having an inadequate ruler can. See Marsilius of Padua, *Defensor pacis* I.xviii.5.

which can no longer be regulated and settled on the basis of law once the controlling organ has failed, are life threatening. This leads to division, fighting, and finally the destruction of the state.⁴³

Marsilius also describes similar consequences in the event that not just one but several governments lay claim at the same time to the highest power in a state. He does not entirely exclude the coexistence of more than one government, but in that case these various governments must be subordinated to one single supreme government.⁴⁴ The unity of the state, which Marsilius sees as guaranteed by the unity of government, is no longer provided for if one government is not subordinated to another. Division and fighting are for Marsilius consequences of the overlap in authority of separate governments and their courts. This could lead to injuries not being avenged or a citizen being summoned before several courts to answer one and the same charge. Marsilius even comes up with a scenario in which the accused might not only have to answer charges before two courts but might need to do so simultaneously, which is impossible. The same problem also occurs when citizens are called together to decide matters relating to the state or to defend themselves against an external enemy. Again, Marsilius sees the danger of citizens having to be in different places at the same time, making the defense of the state or the meeting impossible.⁴⁵ In addition, a plurality of governments arguing over supremacy among them leads to administrative problems, because it is the duty of government to ensure that all necessary functions in the state are sufficiently fulfilled. If this administrative function is exercised by various governments in one state, the aim of a sufficient state can no longer be realized, since the instructions of the governments could contradict one another.⁴⁶ Even though Marsilius deals with this problem only generally in Discourse I and does not adduce concrete examples, he returns to it explicitly, particularly in relation to priests.

Marsilius refers in his discussion to the actual position of the clergy, who are outside secular jurisdiction and exempt from paying taxes and other public burdens because of their immunity. He considers this state of affairs to be a nightmare for any state; he fears that ultimately every citizen could enter a religious order to escape public burdens.

⁴³ Marsilius of Padua, *Defensor pacis* I.xv.6.

⁴⁴ Marsilius of Padua, *Defensor pacis* I.xvii.3.

⁴⁵ Marsilius of Padua, *Defensor pacis* I.xvii.3–5.

⁴⁶ Marsilius of Padua, *Defensor pacis* I.xvii.11–12.

This is also problematic precisely because members of lay orders, who do not have to lead the celibate life, are also exempt from taxation. Marsilius' concern is that, in the end, no one will be willing to take part in public duties. It is not possible to achieve a state capable of functioning under these circumstances.⁴⁷ The actual consequence of this development is not identified by Marsilius in his general discussion in Discourse I of the *Defensor pacis*, although it is obvious as soon as it is seen in relation to the clergy. The ultimate consequence is that all those who have removed themselves from worldly burdens will be subject to ecclesiastical jurisdiction. This would mean everyone would be under ecclesiastical dominion. Marsilius has good reasons for not explicitly expounding the consequences of this medieval version of tax evasion, since it is diametrically opposed to his true doctrine. This provides the opportunity for looking more closely at both the actual role and duties of bishops and priests as well as the position assigned to them by Marsilius.

3. ROLE AND DUTIES OF BISHOPS AND PRIESTS

Once it is evident that in Marsilius' view the clergy should neither lay claim to temporal rulership nor be able to live outside temporal jurisdiction in the condition of immunity, it must be determined more precisely what he in fact considers to be their role and what duties he assigns to them. We should continually remind ourselves in this context of the position from which Marsilius is distancing himself, which comes to the fore particularly in his discussion of the problem of unsuitable priests. This issue culminates in Marsilius' treatment of the problem of excommunication, which is not just of theological interest but explicitly acquires relevance in relation to political rule.

⁴⁷ Marsilius of Padua, *Defensor pacis* II.viii.9. For more detail, see Cary J. Nederman, "Community and Self-Interest: Marsiglio of Padua on Civil Life and Private Advantage," *Review of Politics* 65 (2003), 396–416, at pp. 407–09. Marsilius identifies dangers for the state in two groups in particular if they are present in disproportionate numbers. Apart from the clergy, who at the least could pose a serious problem to the state if they remain outside the community despite profiting from the community, the other sensitive group in Marsilius' theory is the military. Marsilius applies to the military the rule that their number should be large enough to be able to fulfill the duties pertinent to them but not so large that their force exceeds that of the whole body of citizens or the majority of them (*maior pars*). If this rule is not observed, Marsilius fears that the ruler could use military force to override the rule of law of the state and rule despotically. See Marsilius of Padua, *Defensor pacis* I.xiv.8.

Priests and Citizens

Marsilius' theory does not stop at the subordination of the clergy to temporal power. Instead, he takes a major step by integrating the clergy into the body of citizens, referring to Aristotle in the course of his argument. He does not adopt Aristotle's doctrine uncritically, but transforms it according to the needs of his theory. Marsilius justifies this approach without explaining it in more detail by referring to local conditions and traditions.⁴⁸

Marsilius defines a citizen as anyone who "participates in the civil community in the government or the deliberative or judicial function according to his rank."⁴⁹ Only (male) children, women, and aliens are excluded from citizenship, and in the case of children, only until they have reached a certain age; they are citizens in the making. The whole body of citizens is joined through the freedom that distinguishes them, involving the freedom to take part in the making of laws. Marsilius follows Aristotle in defining the state as "a community of free men (*civitas est communitas liberorum*) . . . , every citizen must be free and not undergo another's despotism, that is, slavish dominion." As far as Marsilius is concerned, however, it would indeed be a tyrannical regime—he speaks explicitly of *despotia*—in which not the whole body of citizens but only a portion of them took part in the making of laws. If only a minority made the laws and established the general rule of law, however good the laws may be, the remaining citizens would accept the laws not at all or only reluctantly. The harmony of the state would be disturbed, since those not involved in making laws would not observe them in doubtful cases.⁵⁰

Nor would the clergy, according to Marsilius' definition, automatically be citizens in a traditional medieval society in which they have immunity. Apart from territories completely subject to spiritual power, they participate neither in temporal rulership nor in temporal

⁴⁸ Marsilius of Padua, *Defensor pacis* I.xii.4.

⁴⁹ Marsilius of Padua, *Defensor pacis* I.xii.4: "Civem autem dico, secundum Aristotelem 3° Politice, capitulis 1°, 3° et 7°, eum qui participat in communitate civili, principatu aut consiliativo vel iudicativo secundum gradum suum."

⁵⁰ Marsilius of Padua, *Defensor pacis* I.xii.6. For a more detailed, though maybe too pessimistic, discussion of Marsilius' notion on liberty, see Annabel Brett, "Politics, Right(s) and Human Freedom in Marsilius of Padua," in *Transformations in Medieval and Early-Modern Rights Discourses*, ed. Virpi Makinen and Peter Koffman (Dordrecht, 2006), pp. 95–116.

jurisdiction.⁵¹ They are not even subject to it. If, moreover, Marsilius' argument regarding freedom is considered, it would in addition be unlikely that, even if they were subject to temporal power, they would observe the general order imposed by the laws, since they would not have been involved in making them. It therefore logically follows that Marsilius also assigns the status of citizenship to the clergy after having argued for their subordination to the secular rule of law.

In order to integrate the clergy into the state as citizens, Marsilius uses the Aristotelian division of society into six parts, though he interprets this more comprehensively than Aristotle. For both Marsilius and Aristotle, the state is composed of farmers (*agricultura*), artisans (*arteficiū*), the military (*militaris*), merchants or bankers (*pecuniativa*), priests (*sacerdocium*), and the judiciary or deliberative part (*iudicialis seu consiliativa*). The military, priests, and the judiciary are parts of the state in the strict sense. These three professions form the *honorabiles*, whereas farmers, artisans, and merchants are defined as *vulgares* by Marsilius. This distinction between *honorabiles* and *vulgares* does not mean, however, that the latter are excluded from citizenship or that Marsilius allows them only a lower status. They are just as necessary to the state as the group of *honorabiles*.⁵²

Even though the fact that Marsilius includes the *vulgares* in the body of citizens and provides for their participation in law-making is itself remarkable in the history of ideas, we must continue to focus on the position of the clergy, for it is significant that Marsilius not only includes them among the citizens but also places them among the *honorabiles*. Yet even if he were merely to place the clergy among the ordinary citizens, this would mean that they not only are subject

⁵¹ This general rule, however, no longer applies everywhere in the later Middle Ages. As the example of Erfurt at the close of the thirteenth century shows, that city council was able to prevail against the bishop so that his servants could be called on to perform public duties (except guard duty). See Wilfried Ehbrecht, "Zu Ordnung und Selbstverständnis städtischer Gesellschaft im späten Mittelalter," in Wilfried Ehbrecht, *Konsens und Konflikt: Skizzen und Überlegungen zur älteren Verfassungsgeschichte deutscher Städte*, ed. Peter Johanek (Cologne, 2001), p. 34 (first published in *Blätter für deutsche Landesgeschichte* 110 [1974], 83–103). The example of Erfurt could be supplemented with many others, but it is sufficient in our context, since it reveals that Marsilius picks up on general developments and systematizes them in his theory.

⁵² Marsilius of Padua, *Defensor pacis* I.v.1. On the widening of the Aristotelian concept of citizenship in Marsilius, see Cary J. Nederman, "Mechanics and Citizens: The Reception of the Aristotelian Idea of Citizenship in Late Medieval Europe," *Vivarium* 40 (2002), 75–103, at p. 97.

to temporal laws but also participate in their elaboration. In placing the clergy among the *honorabiles*, Marsilius allows them a preeminent status commensurate with the duties he assigns to them.

This special status derives from the fact that the priestly part, unlike all the other necessary functions in the state, cannot be justified on purely logical and philosophical grounds. There is indeed nothing self-evident about the existence of priests in a state. Yet, according to Marsilius, almost everyone agrees on their necessity, since most religious systems promise rewards in the future world to those who do good and threaten evildoers with punishment.⁵³ Through their censures and threats of eternal damnation, priests contribute to stopping believers from committing crimes.⁵⁴ But their usefulness to the state is paralleled by the damage they can cause to its other citizens. This damage is not just confined to the legal violations, previously mentioned, which they might commit and which are solely explicable on the grounds that they are fallible human beings. Their actual position, with its positive or negative consequences for the state, is based on their responsibility for the eternal life of the faithful. This duty, which will be explained at greater length below, leads Marsilius to include them among the *honorabiles* and to assign to them high moral authority and responsibility.⁵⁵ This preeminent role and responsibility even leads Marsilius to urge for them to be punished more harshly than ordinary citizens when they transgress the general rule of law, since he expects them to examine their conduct more thoroughly before carrying out acts of doubtful legitimacy. Moreover, misbehaving priests teach doctrine to the believers but do not practice it themselves. He who teaches and encourages others to perform certain actions deserves, in Marsilius' view, a harsher punishment than he who receives such teaching.⁵⁶

Although Marsilius assigns greater responsibility to the clergy and although they are counted among the *honorabiles*, he does not grant them the same rights in the state as the laity. Priests remain excluded from certain duties and rights, which he justifies on the presumption that if they were to be allowed to carry out the same tasks as laymen,

⁵³ Marsilius of Padua, *Defensor pacis* I.v.10.

⁵⁴ Marsilius of Padua, *Defensor pacis* II.xxii.8.

⁵⁵ Marsilius of Padua, *Defensor pacis* I.vi.7–8; I.xvii.8.

⁵⁶ Marsilius of Padua, *Defensor pacis* II.viii.7. It is noteworthy in this context that Marsilius, although he is speaking of priestly wrongs against human law, speaks in this passage of sins (*peccatum*) rather than offenses as soon as transgressions of the law by priests rather than laymen are being discussed.

they could no longer adequately carry out their true task, namely, administering the sacraments and teaching divine law. This includes in particular teaching what should be done, what should be refrained from and what should be believed, so as not to have to suffer eternal damnation.⁵⁷ In more general terms, priests should encourage the moral rectitude of human beings and teach everything necessary and beneficial for the good life in both worlds.⁵⁸ The tasks that Marsilius wishes to forbid to priests, because they especially could prevent them from fulfilling their duties, are in particular all governmental duties and participation in worldly affairs. Marsilius thus excludes them from political office in the strict sense and from economic activities. Nor may they own property (*dominium*). This is also justified with reference to the ambivalent meaning of the term *dominium*, which denotes not only property in the strict sense but also (temporal) power.⁵⁹

Marsilius refers to the example of Christ in his explanation of the duties and status of priests and of those occupations that should remain prohibited to them. The possession of offices and wealth is incompatible with the teaching of Christ, and hence he stipulates that all clergy live in poverty.⁶⁰ Marsilius has very definite ideas about what form such poverty should take in reality. He uses many of the arguments put forward in particular by the Spirituals in the Franciscan

⁵⁷ Marsilius of Padua, *Defensor pacis* I.vi.7–8.

⁵⁸ Marsilius of Padua, *Defensor pacis* II.xvii.8. See also Cary J. Nederman, *Worlds of Difference: European Discourses of Toleration, c. 1100–c. 1550* (University Park, PA, 2000), p. 75. Marsilius' argument at this point is about what happens when someone is raised to the priesthood who is not equipped for that office: "Committit enim aliquid transiens in alterius nocumentum pro statu presentis et eciam futuri seculi simul, quod sibi probari potest inesse, id eciam ipso negante, promovendo scilicet ad publicum officium talem, qui aliorum utriusque sexus, feminini maxime, vitam et mores corrumpere potest, aut quantum expedit et necesse est pro statu tam presentis quam futuri seculi mores hominum formare nequit, qualis est perversus vel aliter insufficiens diaconus aut sacerdos."

⁵⁹ Marsilius of Padua, *Defensor pacis* II.xiv.9. For a more comprehensive discussion of Marsilius' *dominium* theory, see Janet Coleman, "Medieval Discussions of Property: Ratio and *Dominium*, According to John of Paris and Marsilius of Padua," *History of Political Thought* 4 (1983), 209–28; and Cary J. Nederman, *Community and Consent: The Secular Political Theory of Marsiglio of Padua's Defensor Pacis* (Lanham, MD, 1995), pp. 35–36.

⁶⁰ Marsilius of Padua, *Defensor pacis* II.xi.3: "Ecce ergo quod status paupertatis et mundi contemptus decet omnem perfectum, precipue Christi discipulum et successorem in officio pastorali, quiniomo quasi necessarius est debenti suadere aliis mundi contemptum, si sua doctrina seu predicacione proficere velit. Nam si talis divicias possideat et principatus ambiat, qui eos quos alloquitur hec spernere docet, ipse quidem sui accione sermonem proprium manifeste redarguit."

controversy about poverty when discussing the perfection of those who minister the gospel.⁶¹

While Marsilius does not completely deny that even perfect ministers of the gospel may dispose of worldly goods, the power of disposal does not mean at the same time that they ought to or are permitted to acquire ownership rights in these goods. The worldly goods necessary for the support of priests and the fulfillment of their duties are subject to the legislator. The legislator, or its executor where one is appointed, may also appoint someone to administer this property:

The ownership of temporal things which have been set apart for the support of gospel ministers belongs to the legislator or to deputies appointed for this purpose either by the legislator or by the donors, if they be private individuals, who have given and set apart such goods out of their own resources for the afore-mentioned use. Persons thus appointed to protect and lay claim to ecclesiastic temporal goods are usually called "patrons of churches."⁶²

Clergy may only dispose of worldly goods to the extent needed to provide for the necessities of life and to fulfill their duties. They may take as much of these goods every day as they need to live. Anything left over from these worldly goods shall not remain in the possession of the priests, but is to be distributed to the poor. Moreover, no priest is allowed to take more worldly goods at any one time than is sufficient for one day.

A priest who is capable of earning his own living and proclaiming the gospel at the same time should not be allowed to supply his daily needs from the possessions intended for that purpose and for giving to the poor. For Marsilius, this is in any case no more than a theoretical consideration, since priests should not have any other occupation than that of preaching the gospel. Otherwise they might neglect their true

⁶¹ For Marsilius' use of Franciscan arguments, see in particular Spiers, "The Ecclesiastical Poverty Theory of Marsilius of Padua," pp. 7ff. See also Condren, "Rhetoric, Historiography and Political Theory," p. 21, who discusses how Marsilius takes up arguments from Bonaventure, the pope and the Spirituals to launch a general attack on the Church.

⁶² Marsilius of Padua, *Defensor pacis* II.xiv.8: "Nos vero dicamus dominium temporalium, que sunt pro ministrorum evangelicorum sustentacione statuta, legislatoris esse aut eius vel eorum qui per legislatorem ad hoc fuerint deputati vel per eos qui talia dederunt, si fuerint singulares persone, que supradicta temporalia dederint et ordinaverint ex bonis suis ad usum predictum; qui siquidem eciam statuti ad ecclesiasticorum temporalium defensionem et vendicacionem, vocari solebant *ecclesiarum patroni*."

duty and commit a sin—Marsilius even speaks of mortal sin in this context. A priest would also commit a sin if he were not to handle with care the property which provides for his daily needs and which he gives to the poor. Marsilius expects the clergy to handle goods economically, though he does not use that exact term. A priest may neither consume more than he needs nor give excessively to the poor so that nothing is left to give on another day.⁶³ These precepts also reveal the main duties of the clergy: preaching the gospel and looking after the poor. Those occupations incompatible with the office of priest are also specified. The clergy are not permitted to engage in secular duties and offices, since this would inevitably lead them to neglect their priestly duties, and they would consequently commit a mortal sin. In addition, priests are accorded a type of judicial authority, though it is of an entirely different nature than that of secular judges. Marsilius considers it the duty of bishops to teach, exhort, censure, and rebuke the guilty and transgressors of the law and to frighten them with the prospect of judgment in the future world with the threat of damnation and the imposition of punishment by the coercive judge, Christ.⁶⁴

Christ alone has the coercive power of divine law, but he submitted himself to temporal power in this world and will only exercise the office of judge in the future world.⁶⁵ In excluding the clergy from all secular political duties and denying to them all rights of ownership, Marsilius is clearly at odds with papal claims and with the historical reality of his time. In his opinion, nearly all bishops of his day do practically the opposite of what is contained in the evangelical teachings and the divine commandments:

For they have a burning desire for pleasures, vanities, temporal possessions, and secular rulership, and they pursue and obtain these objectives with all their endeavour, not with right, but by doing injustice, hidden and open. And yet Christ and his true imitators the apostles spurned these things and taught other men to spurn them, especially if they are to preach before others the gospel of contempt for worldly things.⁶⁶

⁶³ Marsilius of Padua, *Defensor pacis* II.xiv.9.

⁶⁴ Marsilius of Padua, *Defensor pacis* II.x.2: "Iudex tamen est ipse secundum primam significacionem, cuius est docere, exortari, arguere atque corripere delinquentes seu transgressores illius, ipsosque terrere iudico future sibi dampnationis et pene infliccionis per iudicem coactivum, Christum scilicet, in seculo venturo..."

⁶⁵ Marsilius of Padua, *Defensor pacis* II.iv.3; II.iv.7.

⁶⁶ Marsilius of Padua, *Defensor pacis* II.xi.6: "Voluptates namque, vanitates, temporalia et seculi principatus exardent, et omni conamine, non iure, sed iniuria occulta et

Marsilius, in contrast, calls for clergymen to stay away from all temporal offices so that they may (once again) be in a position to fulfill their spiritual duties. He regards priests as physicians of the soul.⁶⁷ Even though the position taken up by the clergy in his theory always carries an element of ambivalence with it,⁶⁸ Marsilius also includes priests in his image of the state understood as a body that can fall victim to disease. He also uses this image to describe the contemporary claim to the temporal power of the papacy and priesthood, insofar as he speaks of a "pernicious pestilence" (*perniciosa pestis*) which, "opposed to all the peace and happiness of man, could well infect with a disease of the same corrupt root the other states of faithful Christians throughout the world."⁶⁹

Excommunication

One of the most deadly weapons at the curia's disposal for asserting this claim to temporal power is that of excommunication, for in accordance with conventional medieval opinion, excommunication not only allows a person to be excluded from the community of believers but also entails at the same time consequences in civil law for the excommunicated. Marsilius also mentions the theological point of view whereby excommunication means the exclusion of a person from the community of believers. This punishment is imposed when someone

manifesta prosecuntur et occupant. Que tamen omnia Christus et vari eius imitatores apostoli spreverunt et spernere docuerunt et preceperunt, eos maxime qui aliis evangelizare debent mundanorum contemptum."

⁶⁷ Marsilius of Padua, *Defensor pacis* II.vii.4; II.x.2, 9.

⁶⁸ On the one hand, Marsilius describes the existence of priests as something which is not absolutely comprehensible through reason (Marsilius of Padua, *Defensor pacis* I.v.10). On the other hand, he adopts the idea from Aristotelian natural philosophy that a state must be organized like a living thing (Marsilius of Padua, *Defensor pacis* I.viii.1) in which all functions are perfectly attuned to one another. Nevertheless, Marsilius includes the office of priest among the necessary functions of the *civitas* (Marsilius of Padua, *Defensor pacis* I.v.1). For this reason, the office of priest would have to be regarded as a natural office in Marsilius' theory. A convincing argument in favor of the interpretation of the office of priest as a natural function is offered by Cary J. Nederman, "Character and Community in the *Defensor Pacis*: Marsiglio of Padua's Adaption of Aristotelian Moral Psychology," *History of Political Thought* 13 (1992), 377–90, at p. 385. For a more extensive discussion of the ambivalence, see Cary J. Nederman, "Tolerance and Community: A Medieval Communal Functionalist Argument for Religious Toleration," *The Journal of Politics* 56 (1994), 901–18, at p. 908.

⁶⁹ Marsilius of Padua, *Defensor pacis* I.xix.13: "...humane quieti atque felicitati sue omni adversans penitus, ex eiusdem vicio corrupte radicis reliqua mundi regna fidelium Christianorum maxime posset inficere..."

shows no repentance for violating divine law even after being rebuked several times. Exclusion from the community of believers also entails exclusion from receiving the sacraments. This anathema inflicted by the Church should be seen as a last resort to bring a sinner to repent so that he can be received back into the Church.⁷⁰

The understanding in the Middle Ages was that exclusion from the community of believers brought with it the loss of civil rights at the same time. The person excommunicated loses his ownership rights, he falls into disrepute, and he is forbidden from associating with the faithful. He is thus deprived of all benefits associated with life in communion.⁷¹

Although excommunication unjustly imposed has no repercussions for the eternal life of the believer, as the true judgment is only spoken by the eternal judge who cannot err, the harm in this life has still been done. In the *Defensor pacis*, at any rate, Marsilius does not criticize excommunication per se with its repercussions on the present life of the believer. His criticism unfolds instead in relation to the common practice by which the curia and priests alone are permitted to pronounce a sentence of excommunication. This applies particularly to priests, who are not integrated into the state in line with his theory but instead enjoy a special status which places them beyond secular jurisdiction. In excommunication, the clergy not only have an instrument at their disposal which enables them to exclude individuals from the community of believers *and* the worldly community; they equally have the option of excluding a ruler—and with him all subjects who continue to recognize him even after he has been excommunicated—from the community of believers and therefore from the civil, that is, political, community.

From a consideration of these repercussions of excommunication for the political life of a believer, it becomes clear on the basis of Marsilius' previous position that he cannot leave it alone to the pope, the curia, or any other body of clergymen to make decisions concerning excommunication.⁷² If this right were to reside in and remain with priests and bishops, they would be able to excommunicate ordinary citizens, as well as a temporal ruler and thus everyone who is ruled by

⁷⁰ Marsilius of Padua, *Defensor pacis* II.vi.11.

⁷¹ Marsilius of Padua, *Defensor pacis* II.vi.12.

⁷² Marsilius of Padua, *Defensor pacis* II.vi.12.

him and who recognize him in the political regime which they themselves have legitimized. The excommunication of any given citizen is indeed reason enough for Marsilius not to relinquish the power of excommunication to priests alone; the excommunication of a ruler, however, could threaten the very existence of the political regime, if not the entire political community. This state of affairs is unacceptable to Marsilius, though it was the practice at the time.⁷³

Because Marsilius holds it to be a general rule running through the whole *Defensor pacis* that all actions that might bear upon the condition of the state must also be the responsibility of all its members, he must find a solution which both allows the spiritual duty of excommunication which he espouses to be exercised without disrupting the ability of the state to function and yet does not withhold from the *universitas civium* its political rights and duties. His distinction between *lex divina* and *lex humana* and their areas of application is relevant in this context, since every case of excommunication rests on divine law. Marsilius conceives *lex humana* as that law derived from human authority, directed towards the just and beneficial and possessing force.⁷⁴ The author of this law is the *universitas civium*. It forms the basis for communal life in the state as well as for all judicial decisions.⁷⁵ Divine law, in contrast, originates with the eternal judge. Marsilius does indeed essentially attribute a character to the *lex divina* similar to that of the *lex humana*: the *lex divina* is ultimately equipped with coercive power, too, but the judge who makes judgments in accordance with it is Christ, who pronounces his judgments in the future world.⁷⁶ Even though Marsilius assumes that the *lex divina* can influence political life, it cannot resolve disputes in civil life. This is the duty of the *lex humana*, for Christ did not come into the world to exercise temporal rulership. The two types of law pursue different ends.⁷⁷

Yet the two laws are not unconnected with one another. Divine law lies at the boundaries of human law, because the duty of obedi-

⁷³ Marsilius of Padua, *Defensor pacis* II.vi.13. Marsilius judges this practice as an expression of contempt for God, which, moreover, does harm to earthly governments (Marsilius of Padua, *Defensor pacis* II.xxiii.10; II.xxvi.12). In addition, excommunication is one of the curia's most effective instruments for appropriating temporal power to itself (Marsilius of Padua, *Defensor pacis* II.xxvi.8).

⁷⁴ Marsilius of Padua, *Defensor pacis* I.x.6; II.viii.5.

⁷⁵ Marsilius of Padua, *Defensor pacis* I.xi.1.

⁷⁶ Marsilius of Padua, *Defensor pacis* II.ix.1.

⁷⁷ Marsilius of Padua, *Defensor pacis* II.ix.12–13.

ence to the *lex humana* ends whenever it comes into conflict with the *lex divina*.⁷⁸ Not only that, but the precepts of the *lex divina* may be adopted into human law. Marsilius illustrates this with the example of heresy. Even though a heretic is always guilty on the basis of the *lex divina*, he can only be judged in this world when heresy is also subject to punishment under the *lex humana*. Punishment is thus based on human law as defined by a secular judge, since no judge in this world is authorized to pass down a sentence for transgressions against divine law. Where heresy is a punishable crime, the secular judge in a trial against heresy is in any case dependent on the participation of clergymen, who act in the role of advisors and experts, though the sentence is passed by the secular judge alone.⁷⁹ In the *Defensor pacis*, Marsilius wants to establish an authority for judgments of heresy that is subject to the control of the legislator and in which priests carry out a cooperative role. This authority will be part of the general council,⁸⁰ as explained in more detail below.

While in the *Defensor pacis* Marsilius maintains that abuses of divine law concerning matters which have been adopted in human law could have repercussions on an individual's civil status—as becomes explicit in the case of excommunication—this position is further developed in his later work, the *Defensor minor*.⁸¹ There he explains that violations of divine law should not have any repercussions on the civil status of a citizen; he even goes so far to regard divorce and marriage to be civil affairs.⁸² Although Marsilius at first refers to the fact that he had expounded the problem of the punishment of heretics in the *Defensor pacis*⁸³ and resorts on various occasions to opinions from that work, he nevertheless returns to this problem at the end of the *Defensor minor*

⁷⁸ Marsilius of Padua, *Defensor pacis* II.v.5.

⁷⁹ Marsilius of Padua, *Defensor pacis* II.x.6–7.

⁸⁰ Marsilius of Padua, *Defensor pacis* II.xviii.8; II.xxi.8.

⁸¹ The *Defensor minor* was long regarded by scholars as a summary of the central theses of the *Defensor pacis*. The fact that the *Defensor minor* is to be regarded as an independent work in which ideas from the *Defensor pacis* are further developed and in part adapted to historical necessity was only accepted by scholars later on. For the fundamental discussion on the relationship of the *Defensor pacis* with the *Defensor minor*, see Cary J. Nederman, "From *Defensor pacis* to *Defensor minor*: The Problem of Empire in Marsiglio of Padua," *History of Political Thought* 16 (1995), 313–29.

⁸² Cary J. Nederman, *Lineages of European Political Thought: Explorations Along the Medieval/Modern Divide from John of Salisbury to Hegel* (Washington, DC, 2009), p. 174.

⁸³ Marsilius of Padua, *Defensor Minor*, ed. Jeudy and Quillet, III.3: "Utrum autem haereticos arcere in hoc saeculo et ab aliorum consortio, poena reali aut personali, sit

and modifies his previous position by pointing out that no violation of a precept of divine law may affect the civil status and ownership rights of the sinner. One of his justifications for this is the assessment of the divine commandments: although they have the force of law in the world to come, in this world they are accorded more the standing of recommendations than any explicitly prescriptive character (*esse consilium, non praeceptum*).⁸⁴

This step had not been taken in the *Defensor pacis*. In the earlier work, Marsilius maintains the still traditional view that excommunication may also bring with it civil consequences for the person thus sentenced. This is certainly the case whenever offences against divine law are also punishable under human law. Nevertheless, excommunication, and the violation of divine law that gives rise to it, has repercussions for the civil status of the person sentenced. Marsilius cannot permit such decisions to be made only by priests and bishops. The faithful human legislator can by all means delegate this task to a group of priests in view of the damage that could result from an unjustified sentence, but that authority must always be restricted. This restriction is defined by the *lex divina* and the *lex humana*.⁸⁵ At the end of the *Defensor pacis*, Marsilius summarizes his position once more: "No bishop or priest or group of them is allowed to excommunicate anyone without authorization by the faithful legislator."⁸⁶

praeceptum aut consilium solum secundum Scripturam sacram, et cuius aut quorum sit auctoritas haec, sufficienter dictum est 10 secundae."

⁸⁴ Marsilius of Padua, *Defensor minor*, XV.6: "Verum excommunicatio secundum quod sonat devitationem alicuius criminosi, quantum ad convictum et socialem conversationem et collocutionem, praesertim in his quae ad Christianam fidem pertinent et cultum divinum, poena non est realis neque personalis, sed pudor et verecundia quaedum, nec propter hanc privatur quisquam suo civili commodo reali aut personali, legis divinae praecepto." On this, see also Bettina Koch, "Religion as a Principle of Political Order? Comparing Marsilius of Padua and Johannes Althusius," in *Jurisprudenz, Politische Theorie und Politische Theologie: Beiträge des Herborner Symposiums zum 400: Jahrestag der Politica des Johannes Althusius, 1603–2003*, ed. Frederick S. Carney, Heinz Schilling, and Dieter Wyduckel, Beiträge zur Politischen Wissenschaft 131 (Berlin, 2004), p. 40.

⁸⁵ Marsilius of Padua, *Defensor pacis* II.xxii.4; II.xxiii.4.

⁸⁶ Marsilius of Padua, *Defensor pacis* III.ii.16: "Excommunicare quemquam absque fidelis legislatoris auctoritate ulli episcopo vel presbytero aut ipsorum collegio non licere..." Even though Marsilius summarizes here a position earlier outlined in Dictio II of *Defensor pacis*, the third and rather short Dictio has a rather odd status. For that, see Gerson Moreno-Riaño, "Marsilius of Padua's Forgotten Discourse," *History of Political Thought* 29 (2008), 441–59.

Marsilius adopts his general theory on the issue of excommunication. Only a secular judge may inflict and enforce a punishment even when he is following the judgment of the council or a group of experts appointed for that purpose. The prerequisite for punishing a heretic in this world, however, is that the offence committed has become part of human law, for the secular judge only imposes punishment for offences punishable in the state.⁸⁷

Priests and Faithful Legislator

The manner in which, in Marsilius' view, priests spread poison through the state becomes especially clear from his discussion of unsuitable priests. Nor is Marsilius content to analyze what he sees as an unsatisfactory state of affairs; he goes on to make suggestions for how to solve the problem. These solutions are aimed in particular at the selection and appointment of suitable candidates for the priesthood. Marsilius considers here the mechanisms that he describes in Discourse I of *Defensor pacis* for the election and removal from office of a temporal ruler as well as those of the primitive Church of early Christianity. He does not simply adopt these models. Instead, he modifies them in line with specific requirements of the priesthood.

First, Marsilius takes exception to the common practice by which it is left to priests themselves to decide who can and ought to be elected to the priesthood. In this regard, Marsilius takes issue not just with the appointment of ordinary priests but in particular with the promotion of individuals to the office of bishop who lack the minimum requirements for adequately carrying out that office. Marsilius illustrates this using an example of someone barely twenty years old who has been invested with the office of bishop in a city which he does not name, even though he is not even capable of making a grammatically correct speech. Nor does this bishop have any knowledge whatsoever of divine law. The example of the twenty-year-old is no one-off case in Marsilius' opinion; he points out that in many places the bishops have not even been ordained as priests.

Marsilius once again discerns the reason for this grievous state of affairs in papal power politics, because the pope bestows the office of bishop or other spiritual offices as a means of gaining the favor

⁸⁷ Marsilius of Padua, *Defensor pacis* II.x.3.

of the powerful. He thus identifies the main motivation behind papal bestowal of office first and foremost in power-political considerations and not in the personal qualifications of the candidate, which he sets as the standard for appointments to office.⁸⁸

With the abuse of the papal bestowal of office in mind, Marsilius formulates principles for priestly investiture which are meant to exclude as far as possible an unsuitable candidate being called to the priesthood. The principle he applies is analogous to that governing the appointment of a temporal ruler described in Discourse I: As can be inferred from the organic analogy used by Marsilius outlined earlier, he conceives the *universitas civium* as the primary moving cause which not only appoints the government but also determines, in its capacity as legislator, the framework of communal coexistence and the activities of government. Although the *universitas civium* in the last instance is free to decide which candidate should exercise the office of government, Marsilius also imposes strict moral demands on the ruler, for he should show *prudencia et moralis virtus, maxime iustitia* and love (*amor*) towards the state and its citizens.⁸⁹ In addition to the constitutional conditions intended to guarantee that the officeholder does not abuse his office and act contrary to the common good, the requirements made of the ruler are to be seen as an additional means of preventing abuse of office and protecting the state from internal dangers. Nevertheless, in the final instance, responsibility for the state still remains with the *universitas civium* as the human legislator, for it is the duty of every citizen to ensure that the state is not endangered.⁹⁰

⁸⁸ Marsilius of Padua, *Defensor pacis* II.xx.14: "Et Deo teste ac fidelium multitudine, sacerdotes plurimos, abbates et ecclesiasticos prelatos quosdam me vidisse ac audisse memini adeo diminutos, ut eciam nec grammatice congruum scirent proferre sermonem. Et quod amplius orendum est, in ecclesiastico ritu sciivi et vidi hominem citra vigesimum etatis sue annum divine legis ignaram quasi penitus, cui tamen in famosa et populosa civitate commissa est episcopalis cura, eo non solum sacerdotali ordine carenti, verum eciam diaconatus et subdiaconatus exorti. Quod quidem asserit se licite posse, hoc eciam at quasi consimile inconueniens de facto persepe faciens propter potentum favorem sibi querendum, qui super ecclesiasticorum officiorum institutionem et beneficiorum distributionem Romanus episcopus habere se dicit, velut Christ vicarium, plenitudinem potestatis."

⁸⁹ Marsilius of Padua, *Defensor pacis* I.xiv.2; I.xiv.7.

⁹⁰ Marsilius of Padua, *Defensor pacis* I.xix.13. Marsilius refers in the context of this discussion to Cicero's concept of justice. On this, see Cary J. Nederman, "Nature, Justice, and Duty in the *Defensor Pacis*: Marsiglio of Padua's Ciceronian Impulse," *Political Theory* 18 (1990), 615–37, at p. 620.

Just as the members of the secular state are responsible for making sure that it is well ordered, Marsilius similarly ascribes responsibility for the constitution of the Church to the faithful human legislator, whose duty it is to create structures that guarantee as far as possible that only suitable candidates are admitted to the priesthood.⁹¹ For this reason, Marsilius also considers it necessary that, at least in a perfect state, the faithful human legislator or the whole body of believers has the right to determine which persons ought to be admitted as priests. Just as with the election of the ruler, the right to elect someone also includes the right to remove him from office.⁹² If the ruler errs in the exercise of his office and consequently endangers the common good, it is incumbent upon the *universitas civium* to reprimand or depose him.⁹³ If a priest errs and endangers the salvation of the faithful, he also may be reprimanded or deposed. Marsilius refers here in particular to the example of primitive Christianity and the apostles.⁹⁴

By applying the principles of his theory from Discourse I to the relationship between the faithful and the priesthood, the internal logic of Marsilius' work becomes immediately apparent. In addition, it becomes clear why Marsilius has to forbid priests from exercising secular jurisdiction, since there is no sense to a political regime that cannot act because it lacks coercive power. By subjecting priests to the same rules that apply to everyone else, he is also able to ensure that no priest can presume to be able to violate the rules of the state and of his office without being punished.

The responsibility for appointing priests and, if necessary, removing them again lies in the first instance with the parish itself or the province concerned. By not wishing to assign this responsibility to one single person, Marsilius is following the premise that the deliberations of everyone involved in appointments will lead to fewer

⁹¹ Marsilius of Padua, *Defensor pacis* II.xvii.8.

⁹² Marsilius of Padua, *Defensor pacis* II.xvii.8–9.

⁹³ Marsilius of Padua, *Defensor pacis* I.xv.2; I.xviii.3.

⁹⁴ Marsilius of Padua, *Defensor pacis* II.xvii.12; II.xvii.15. Marsilius himself makes the connection between the election and appointment of a ruler and a priest by pointing out that harm could be inflicted on the state as a result of the election and appointment of the false ruler. Marsilius holds that the appointment of an unsuitable priest might not only lead to disturbances in civil life but also put at risk the salvation of believers. On this, see also Conal Condren, "Marsilius of Padua's Argument from Authority: A Survey of Its Significance in the *Defensor Pacis*," *Political Theory* 5 (1977), 205–18, at p. 208, who points out the interdependence in this context between "authoritative practice" and "authoritative belief."

errors.⁹⁵ Just as in the case of the appointment of the ruler, Marsilius assumes, moreover, that only election can be the appropriate means for appointing suitable candidates to the priesthood. He excludes parishes of the primitive Church from this, where it was often beneficial to have priests elected not by the parishes themselves but by the apostles because believers lacked experience and were easily influenced. But this reservation no longer applies in his time. Particularly in the perfect state of believers—by this is meant a community organized according to Marsilius' principles—electing priests is the responsibility of the multitude of believers. Alternatively, the multitude of believers can assign this responsibility to a group.⁹⁶

Marsilius views the whole Church in this sense as a collective unity of many parishes and provinces. The (faithful) human legislator in each place or a representative body appointed by it carries out the election of priests.⁹⁷ Apart from the faithful human legislator, the ruler may also appoint priests, bishops, and deacons to their offices. Entitlement to this right is assigned to him by the faithful legislator. For his part, the ruler must ensure that all functions in the state are available in sufficient numbers.⁹⁸ This also follows logically from Marsilius' reasoning in Discourse I.⁹⁹ The ruler, who in Marsilius' theory could equally preside over a kingdom (he cites France as an example) or the empire, has received this right from the human legislator. Moreover, the ruler is entitled to another right transferred to him by the faithful human legislator: he may levy taxes on worldly goods belonging to the Church. But he is only entitled to this right when a surplus is realized from the benefices over and above what is necessary for the Church to fulfill its duties. These taxes may not be imposed arbitrarily and for any purpose whatsoever but must lie within the remit of what is legally permissible under divine or human law. This includes taxes "for the

⁹⁵ Marsilius of Padua, *Defensor pacis* II.xvii.5–6.

⁹⁶ Marsilius of Padua, *Defensor pacis* II.xvii.7–8. Marsilius does not, however, go so far as to affirm that the election of a person as priest is sufficient to inaugurate him fully in his office. The ordination of the priest by another priest is also needed. By allowing the faithful first to decide about a candidate, Marsilius wants to exclude the possibility that anyone who wishes can be raised to the priesthood, because the faithful may be harmed if unsuitable candidates are chosen.

⁹⁷ Marsilius of Padua, *Defensor pacis* II.xvii.9.

⁹⁸ Marsilius of Padua, *Defensor pacis* II.xvii.17. The qualification applies here, however, that the ruler must himself be a believer in order to be granted the right by the faithful human legislator to appoint priests, deacons, and bishops.

⁹⁹ Marsilius of Padua, *Defensor pacis* I.xv.8–10; II.viii.7–9.

defense of the country, or for the redemption of men taken captive in the service of faith, or for the support of public burdens, and for other reasonable purposes, in accordance with the determination of the faithful legislator."¹⁰⁰ Given that the ruler is bound to divine law not only in respect of levying taxation but must also take divine law into account whenever he exercises his judicial function under human law, a special body is needed to determine the meaning of divine law. Marsilius places this interpretative authority not in the ruler himself but in a general council.

4. MARSILIUS' CONCILIAR PLAN¹⁰¹

The general council can be understood as a mediator between the spiritual and temporal powers. Its structure clearly reveals the relationship between the papacy and the emperor. Insofar as Marsilius integrates this intermediary function into his theory of the state, this institution also shows that he is not concerned to introduce a clear separation between Church and state, to use modern terminology. Indeed, he wants to integrate the Church into the secular state. In attempting to do so, he once again uses the same principles he had developed in Discourse I and which were vital in defining the new role of priests.

Function and Duty of the Council

Just as in the secular state, there must be an authority within the Church capable of settling potential disputes. This applies in particular where,

¹⁰⁰ Marsilius of Padua, *Defensor pacis* II.xvii.18: "...pro patrie defensione aut captivorum in fidei obsequium redempcione vel supportandis oneribus publicis ac aliis racionalibus causis, secundum legislatoris fidelis determinacionem." Marsilius goes even further, however. In the event that the Church does not need its goods to fulfill its duties, the faithful human legislator may tax these at a rate higher than a tithe (Marsilius speaks of a fourth or a third). It may even expropriate the Church in an emergency if this is necessary for defensive purposes (Marsilius of Padua, *Defensor pacis* II.xxi.14).

¹⁰¹ Recently, Marsilius' conciliar theory has regained scholarly focus, though not primarily as a theory in its own right but, rather, in the context of Nicholas of Cusa's conciliar theory. See, for instance, Gregorio Piaia, "Marsilius von Padua († 1342) and Nicolaus Cusanus († 1464): Eine zweideutige Beziehung?" *Mitteilungen und Forschungsbeiträge der Cusanus-Gesellschaft* 24 (1998), 171–93; Francis Oakley, "The Conciliar Heritage and the Politics of Oblivion," in *The Church, the Councils, & Reform: The Legacy of the Fifteenth Century*, ed. Gerald Christianson, Thomas M. Izbicki, and Christopher M. Bellitto (Washington, DC, 2008), pp. 82–97.

for instance, there is disagreement about the interpretation of divine law. Marsilius holds that there can only ever be one true interpretation. This interpretation of innate truth functions in the same manner as justice to human law. The interpretation of divine law reflects the present standard of justice and knowledge of the state. In Marsilius' view, the existence of several competing "truths" gives rise to disputes that could lead to schism in the Church.¹⁰² It is clear to him that he cannot allow all theological writings the same truth claim. In his opinion, neither the writings of the Church Fathers nor the witnesses of canon law—nor other texts written by the curia—are canonical in the strict sense. The sole canonical writing for Marsilius is Holy Scripture, for it alone is given directly by God.¹⁰³ Every Christian must believe only in it.¹⁰⁴

Just as with the earlier account of the mechanism meant to underlie the selection and appointment of priests, Marsilius similarly refers to primitive Christianity when looking at the council. He identifies the council with the assembly of the apostles presided over by the Holy Spirit. Because Marsilius sees the general council as the successor to the assembly of the apostles, he posits that here, too, the Holy Spirit acts as guide and reveals the truth.¹⁰⁵

Marsilius stresses the direction of the Holy Spirit in the general council, since it becomes clear from this that men gathered in council

¹⁰² Marsilius of Padua, *Defensor pacis* II.xx.1.

¹⁰³ Marsilius of Padua, *Defensor pacis* II.xix.2, 4. Marsilius' view on authoritative texts has also been considered one reason for his contributions of support for Ludwig the Bavarian and John XXII. See George Garnett, *Marsilius of Padua and 'the Truth of History'* (Oxford, 2006), pp. 172–78.

¹⁰⁴ In determining which writings are to be regarded as canonical, Marsilius invokes Augustine among others: "Intellexit ergo beatus Augustinus per canonicas scripturas eas solas, que in volumine Biblie continentur, non quidem decretales aut decreta Romani pontificis et suorum collegii clericorum, quos *cardinales* appellant: neque alia quevis humana statuta, de humanis actibus aut contencionibus et humano spiritu adinventata" (Marsilius of Padua, *Defensor pacis* II.xix.6). Referring to the Third Council of Carthage, Marsilius proves that Augustine's position, which he follows, also corresponded to historical practice (Marsilius of Padua, *Defensor pacis* II.xix.7). In defending this position, Marsilius at the same time denies any value to canon law. On this, see Canning, *A History of Medieval Political Thought 300–1450*, p. 156.

¹⁰⁵ Marsilius of Padua, *Defensor pacis* II.xix.2: "Cum igitur fidelium congregatio seu consilium generale per successionem vere representet congregationem apostolorum et seniore ac reliquorum tunc fidelium, in determinandis scripture sensibus dubiis, in quibus maxime periculum eterne dampnationis induceret error, verisimile, quinimo certum est, deliberacioni universalis consilii spiritus sancti dirigentis et revelantis adesse virtutem."

can have access to the truth of divine law.¹⁰⁶ If this were not the case, the existence of divine law would itself be pointless, for no one could believe it for their own salvation. Everyone would be condemned to eternal damnation.¹⁰⁷ Right at the beginning of his discussion of the general council, Marsilius makes clear the connection between the truth of conciliar decisions and the authority of the human legislator:

The decisions of the general councils with regard to the doubtful meanings of Scripture receive the origin of their truth from the Holy Spirit, the coercive authority for their observance and acknowledgement from the human legislator (as will be shown below), and their promulgation and teaching through the priests and gospel ministers, especially the one who has been made the leader for this purpose by the faithful human legislator which lacks a superior, or by the general council.¹⁰⁸

Provincial churches come from all the provinces of the world (*ut omnes mundi provincie*).¹⁰⁹ Representatives are elected in accordance with the determination of the human legislator from each one of these provincial churches or provinces. The number of representatives sent depends on the size and importance of each province. Both priests and laymen are to be elected who have distinguished themselves in their manner of life and their knowledge of divine law. While, in earlier times, it was possible for the council to be composed solely of clergymen, Marsilius thinks this is no longer advisable, since most bishops and priests no longer have sufficient knowledge of divine law.¹¹⁰ The elected delegates represent the whole body of believers¹¹¹ and assemble in one place

¹⁰⁶ Cary J. Nederman, "The Union of Wisdom and Eloquence before the Renaissance: The Ciceronian Orator in Medieval Thought," *Journal of Medieval History* 18 (1992), 75–95, at p. 92.

¹⁰⁷ Marsilius of Padua, *Defensor pacis* II.xix.3.

¹⁰⁸ Marsilius of Padua, *Defensor pacis* II.xix.3: "Et ideo pie tenendum, determinationes conciliorum generalium in sensibus scripture dubiis a spiritu sancto sue veritatis originem sumere, ad humano vero legislatore, ut in sequentibus ostendetur, sue observacionis in confessione auctoritatem coactivam, promulgacionem vero atque doctrinam earum a sacerdotibus et evangelicis ministris, horum vero maxime ab eo, quem ad hoc principalem statuerit fidelis legislator humanus superiore carens aut consilium generale."

¹⁰⁹ If this statement is taken together with the various examples from early Christianity, the conclusion would suggest itself that Marsilius, even though it is never made explicit, wants to reunite the Greek and the Latin Churches. This idea is supported by the fact that Marsilius describes the council as a council of all Christians or their weightier part (Marsilius of Padua, *Defensor pacis* II.xx.2).

¹¹⁰ Marsilius of Padua, *Defensor pacis* II.xx.5.

¹¹¹ Marsilius, in a certain sense, reverses his argument about the *valentior pars* here. When he argued before in relation to the process of law-making that as far as possible

determined by majority decision. The purpose of the council is to settle all doubtful matters of divine law and make decrees concerning church ritual and divine worship.¹¹² Representatives or delegates may be compelled to take part in the council should they refuse to do so. This obligation may be imposed either by the human legislator from the representatives' province or by the faithful human legislator who lacks a superior or someone delegated by it.¹¹³ Imposing this obligation of attendance is not just a right of the legislator, but a duty.

Marsilius evinces a skeptical attitude in his overall account of the council towards the spiritual representatives sent to it. This even applies to priests appointed to office according to his preferred method of election by the believers. Priests alone may indeed make decisions in matters of faith, at least where there is consensus among them, but whenever they are in disagreement, the decision resides with the lay representatives. It is their responsibility to formulate the decision.¹¹⁴

According to Marsilius' general theory, apart from the Holy Spirit, the council needs a human leader to take the chairmanship. The pope's function is reflected in this chairman. Because Marsilius also allows for the possibility that a heretic might occupy the Holy See, he is cautious about the extent of papal powers. He does not want to leave the election of the pope solely in the hands of the clergy, as this could endanger the faith of believers and thus threaten their eternal life.¹¹⁵ Even any necessary removal from office of a pope must not be left to a purely spiritual college but is the right of the general council. Marsilius suggests that a college of clergy would probably attempt to delay a process against the pope or block it altogether.¹¹⁶ Furthermore, human law is dependent on divine law, as discussed above, to the extent that divine law not only defines the boundaries of human law but that prescriptions of divine law may also be integrated into human law and equipped with coercive power in this world.

all those affected by the laws should be able to participate in the decision-making process and merely alludes to the possibility of a representative body in an aside, he was basing the general council on the principle of representation. Now he even considers it harmful to let inexperienced believers assemble to make decisions about divine law (Marsilius of Padua, *Defensor pacis* II.xx.2).

¹¹² Marsilius of Padua, *Defensor pacis* II.xx.2.

¹¹³ Marsilius of Padua, *Defensor pacis* II.xx.3.

¹¹⁴ Marsilius of Padua, *Defensor pacis* II.xx.5, 13.

¹¹⁵ Marsilius of Padua, *Defensor pacis* II.xx.6–7.

¹¹⁶ Marsilius of Padua, *Defensor pacis* II.xxi.3.

Pope and Emperor

The general council is an institution in which all provincial churches are represented. The dependence of human law on divine law means it is forbidden to grant the pope too wide a range of powers, since otherwise all secular jurisdiction would once again be dependent on the person and office of the pope.¹¹⁷

As for the question about who has the right to summon a general council, Marsilius follows the model applied to temporal rulership. The same authority should decide who should appoint the pope and who should be granted which powers. Marsilius at first formulates this in a very general way:

It pertains only to the authority of the faithful human legislator which lacks a superior, or to the person or persons to whom it has granted such power, to call a general council, to name suitable persons to it, to have it duly assembled, solemnized and consummated, and to coerce lawfully, in accordance with divine and human law, those persons, whether priests or non-priests, clergy or non-clergy, who rebel against coming to the council and accomplishing the necessary and useful tasks listed above, or who transgress the decrees and decisions of the council.¹¹⁸

Who exactly Marsilius has in mind behind this general formulation becomes clear further on in the text. He first refers to examples from history in order to then name the specific individual.¹¹⁹ The Roman emperor, who represents the faithful, ought to issue decrees concerning appointments to the Holy See and assume the tasks listed above.¹²⁰ The emperor also has the right to bestow teaching licenses, assuming this right has been granted to him by the human legislator.¹²¹ This equally applies to the position of the Roman bishop. The emperor is

¹¹⁷ Marsilius of Padua, *Defensor pacis* II.xx.8.

¹¹⁸ Marsilius of Padua, *Defensor pacis* II.xxi.1: "...ad solius humani legislatoris fidelis superiore carentis auctoritatem pertinere, aut eius vel eorum, cui vel quibus per iam dictum legislatorem potestas hec commissa fuerit, generale concilium convocare, personas ad hoc idoneas determinare, ipsumque congregari, celebrari et secundum formam debitam facere consummari, rebelles quoque ad conveniendum et iam dicta necessaria et utilia faciendum, determinatorum quoque ac ordinatorum in dicto concilio transgressores tam sacerdotes quam nonsacerdotes, clericos aut nonclericos, licite secundum divinam et humanam legem per coactivam arcere potenciam." Judgments may only be made according to divine law, however, when this has become part of human law and is armed with coercive power.

¹¹⁹ Marsilius of Padua, *Defensor pacis* II.xxi.4–6.

¹²⁰ Marsilius of Padua, *Defensor pacis* II.xxi.7.

¹²¹ Marsilius of Padua, *Defensor pacis* II.xxi.15.

entitled to call together a body to elect the pope, as long as he has been granted this power. This also includes the right to rebuke and depose the pope.

The pope's further exercise of office is also dependent upon the emperor. Although it is the pope's responsibility to assume the chair in the general council, only the emperor may actually call a council. The pope takes charge of supervision, but this does not mean he has coercive legal powers. His duty is to monitor whether questions of faith arise that need to be clarified.¹²² Should this occur, he must—after prior consultation with a college of priests—inform the emperor, who may then summon a general council. At the council itself, the pope takes the chair. He determines the agenda, summarizes the results of the discussion, and ensures that its decisions are made public by notifying priests and bishops throughout the individual provinces to announce them. In addition, the pope is accorded a juridical function. He may make judgments about purely ecclesiastical matters so long as these have no coercive power. Indeed, he should censure the transgressor in the manner already described and hold before him the repercussions of his offense for eternal life.¹²³

Even though it might look as if the pope's powers of office are extremely limited, he can nevertheless influence important elements and tendencies in the Church, since he determines the agenda of the council and generally takes the initiative in having the emperor summon a council. In principle, a function is accorded to him with respect to divine law that is similar to the function ascribed to the *prudentes* with respect of human law. Marsilius assigns to the *prudentes* in Discourse I of the *Defensor pacis* a deliberative function in secular law-making in the state. They draft law proposals to be submitted before the *universitas civium* for discussion and voting. However, the task of the *prudentes* as well as that of the pope is confined to this, for Marsilius grants neither the *prudentes* in the secular state nor the pope the authority to enact these proposals and imbue them with the force of law.¹²⁴

The emperor, as representative of the faithful human legislator, can, however, just like the *universitas civium*, reject the pope's decrees.

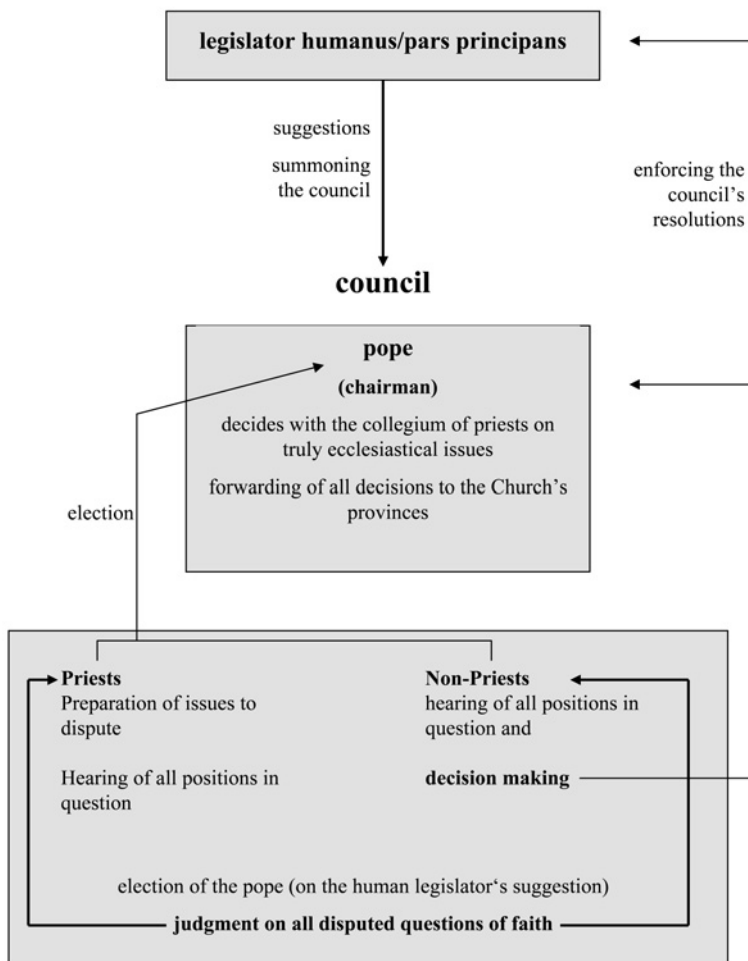
¹²² Marsilius of Padua, *Defensor pacis* II.xxii.10. This right, though, is not granted to the pope alone but equally to all representatives and human legislators of the provincial churches or provinces (Marsilius of Padua, *Defensor pacis* II.xxii.6).

¹²³ Marsilius of Padua, *Defensor pacis* II.xxii.6.

¹²⁴ Marsilius of Padua, *Defensor pacis* I.xiii.8.

Both the office of the pope and that of the emperor are to be understood in relation to each other. Certain duties may only be fulfilled by both parties together. This applies in particular to matters in which the consequences for the affected party are wide-ranging and which touch upon both the civil as well as the eternal status of an individual. This becomes especially apparent in the case of excommunication discussed above.

The diagram below recapitulates how the council, a major component in Marsilius' ecclesiology, functions:



Marsilius's Council

5. CONCLUSION: SALVATION AS AN END OF THE STATE?

Marsilius' theory is not aimed at achieving an early modern separation between temporal and spiritual power or, to use modern terminology, between Church and State. Instead, it is aimed at realizing the integration and subordination of the spiritual power to the state's power of disposal. In order to achieve this end, Marsilius reorders the powers and duties of the clergy and subordinates them to the rule of law of the state. This integration and subordination have two ends: to avoid harm to the state and to serve the *bonum commune*. Possible harm refers to the general rule of the state. Marsilius' theory does not allow the spiritual power to continue to operate outside the rule of law of the political state yet at the same time be able to influence its internal constitution. Marsilius justifies this with the general principle that everything which affects the citizens or believers themselves must also be subject to their influence. Moreover, Marsilius follows the principle that all those who wish to profit from the advantages of life in community must also submit themselves to the general norms of the state and jointly bear its burdens.

Marsilius derives the following consequences from taking these general principles as a basis: priests, whose conduct could endanger the stability of the political community without it being possible to hold them to account for their actions, are to be integrated into the political community. The foremost end of Marsilius' theory is thus to avoid damage to the state as a whole and to its citizens: priests are part of the state and are subject to its rights and duties. All political rights, which are merely arrogations in Marsilius' opinion, will be withdrawn from the pope, as the counterpart of the emperor; he will be granted a clearly defined authority that does not justify or require any coercive power.

But avoiding harm, in Marsilius' view, also includes the harm that can be caused to a believer as result of hearing priests preach false doctrines, obeying these and, as a consequence, running the risk of forfeiting eternal salvation. Here it can be argued initially: by anchoring all principles in the constitution of the state, with the aim of creating prerequisites such that every believer can achieve the end of salvation, and making the faithful human legislator responsible for the observance of these principles, salvation does not become an end of the state in the strict sense, yet it can be regarded as a political end in the broad sense. It only becomes an end of the state in the strict sense

when the legislator decides to make violations of divine law that are also punishable under human law (such violations always referring to external actions only, not to internal disposition). The extent to which this occurs depends on the state itself; Marsilius neither makes any recommendations nor can his preferences in the *Defensor pacis* be clearly identified. This changes in the *Defensor minor*, where he argues that no violation of the teachings of the faith should have repercussions for the civil status of a heretic. Despite this secular turn in the *Defensor minor*, Marsilius' concern remains to constitute the state in such a way that the end, not just in this world but also in the next, of all believers who live in the state can be achieved. This view corresponds to the two ends named by Marsilius at the beginning of the *Defensor pacis*.¹²⁵

These two ends also account for the fact that Marsilius integrates the spiritual power into the state by necessity; a separation of Church and State in the early modern sense would not represent a solution for him, because the state would thus lose its second end, which must similarly remain within the regulatory powers of the *universitas* if it is to be fulfilled. The integration of the priesthood into the state, while at the same time excluding priests from political functions, is thus a logical and necessary consequence and follows Marsilius' maxim of functional differentiation set out in the first discourse of the *Defensor pacis*.¹²⁶

In this sense, the end of the constitution of the state is attaining salvation without forcing citizens to submit themselves to this purpose. The status of one's soul is ultimately the responsibility of each individual. Salvation can only be regarded by Marsilius as an "end of the state" to the extent it lies within the responsibility of the *universitas* to create the necessary conditions which do not simply remove any obstacles standing in the way of achieving this end, but which actually encourage it.

¹²⁵ Marsilius of Padua, *Defensor pacis* I.iv.3: "Vivere autem ipsum et bene vivere conveniens hominibus est in duplici modo, quoddam temporale sive mundanum, aliud vero eternum sive celeste vocari solitum."

¹²⁶ Marsilius of Padua, *Defensor pacis* I.iii.4–5. On this, see also the comments in Nederman, *Community and Consent*, pp. 53–72.

CHAPTER SIX

THE SPIRITUALITY OF THE CHURCH: SCRIPTURE, SALVATION, AND SACRAMENTS

Michael J. Sweeney

I. INTRODUCTION: SUBJECT MATTER AND STATE OF THE QUESTION

The Church in Marsilius of Padua's *Defensor pacis* can be examined from two perspectives. First, and most typically in modern commentaries, it can be considered in relation to the state, i.e., in relation to the *legislator civilis*. From this perspective, for example, one can speak of the priesthood as part of the city, and one can retrace the tragic history in Christendom of the oligarchic priesthood's treasonous usurpation of coercive jurisdiction. Second, and less commonly in Marsilian scholarship, one can treat the Church as spiritual, i.e., the Church's otherworldly mission, absent any claim to coercive power. Marsilius approaches the Church from both perspectives, for the Church has a twofold temporal relation: it exists in this world and thus in relation to the temporal power, but its ultimate purpose is the next world, which will begin when this world ends. To some degree, of course, Marsilius subordinates the eternal purpose of the state to the temporal, since Christ taught the subordination of the Church to the *legislator civilis* in all matters of law that involve coercive jurisdiction. Nevertheless, ecclesial matters do not always involve coercive jurisdiction in this world, and so the Church cannot be completely understood from the perspective of political philosophy. While the healing power of Aristotle's political philosophy must be brought to bear on the clergy's diseased claim to *plenitudo potestatis*, there remains a theological element to the Church.

The definition of *spirituale* in the *Defensor pacis* II.ii provides a preliminary guide to the boundaries of the temporal and the eternal, the philosophical and the theological, in Marsilius' ecclesiology. In the tradition of the Aristotelian distinction between actuality as *energeia* and actuality as *kinesis*, Marsilius distinguishes between immanent and transitive acts. Immanent acts are internal, invisible and private,

such as the act of perceiving. Transitive acts are external, visible and public, such as the changes in the sensory organ that are observable by someone not undergoing the experience. For Marsilius, transitive acts are civil, whereas immanent acts are not.¹ Thus, by this distinction alone, not all human acts are political, and not all of human life is subject to human law. This notion of the “spiritual,” however, is given a more elevated meaning when the notion of intention or purpose is added. “Purposiveness” is an immanent act that can direct an action toward eternal life or toward temporal life. A higher level of spiritual activity occurs when the purpose or final cause of the action is to merit a reward in the future world: “Moreover, in another sense this word [*spirituale*] is used for any voluntary human action or passion, whether in oneself or directed toward another, which is done for the purpose of meriting a blessed life in the future world.”² The Church as spiritual is the “universitas fidelium credentium et invocantium Christi,”³ that is, all those who direct their lives to Christ as the judge who will reward and punish at the end of this world and the beginning of the next. The transitive actions of the Church are subject to the *legislator civilis*, but the immanent act of orientating human life to Christ is not in itself political.

The divine law is spiritual not only because it contains the commands and counsels of the highest spiritual being, God, but also because this law orders human intentions toward the next world. Sacraments, grace, theological virtues, and gifts of the Holy Spirit fall under this definition of divine law because they do the same thing, namely, order us to eternal life. The opposite of the spiritual is the carnal, which is the ordering of human life to temporal goods and corruptible life. In sum, the civil legislator is the judge of the transitive but not of the immanent, since the immanent is unknown to the human judge. Even

¹ See Baldassare Labanca, *Marsilio da Padova: Riformatore Politico e Religioso del Secolo XIV* (Padua, 1882), pp. 151–52.

² All English translations of *Defensor pacis* are from Marsilius of Padua, *The Defender of Peace*, trans. Alan Gewirth (New York, 1956). All Latin references to *Defensor pacis* are from Marsilius von Padua, *Defensor pacis*, ed. Richard Scholz, 2 vols, *Monumenta Germaniae Historiae, Fontes iuris Germanici antiqui in usum scholarum separatim editi* 7 (Hanover, 1932–33). Marsilius of Padua, *Defensor pacis* II.ii.5: “Amplius secundum aliam significacionem solet hoc nomen accipi pro qualibet accione vel etiam passione humana voluntaria, tam in se quam ad alterum operata propter meritum beate vite futuri seculi...”

³ Marsilius of Padua, *Defensor pacis* II.ii.3.

less knowable to the human judge is the next world:⁴ God alone can justly judge the immanent actuality of human intention, and He alone can reveal the world that He will create and the new law that he has created to order us to that future world. The Church as spiritual is, therefore, theological, and the *Defensor pacis* is a work of both philosophy and theology.

A general consensus exists among commentators on the *Defensor pacis* that, at least with regard to the letter of the text, Marsilius does allow for a spiritual, theological, and non-political perspective on the Church.⁵ Few, however, have considered this an important area of research. Alan Gewirth provides the most extensive treatment of the Church as spiritual;⁶ other scholars include Baldassare Labanca, Felice Battaglia, Mario Grignaschi, Jeannine Quillet, Georges de Lagarde, Stephen Torraco, and Michael Löffelberger.⁷ Inasmuch as they treat the subject, these commentators agree on many details in Marsilius' theology, but the place of theology in the *Defensor pacis* and the reasons

⁴ See Marsilius of Padua, *Defensor pacis* I.iv.3.

⁵ Labanca, *Marsilio da Padova*, p. 148: "La chiesa, così concepita, esiste per disposizione non umana, sì divina, in quanto ha uno scopo divino e spirituale, consistente nel santificare gli uomini in questa vita, et beatificarli nell'altra." Felice Battaglia, *Marsilio da Padova e la filosofia politica de medio evo* (Florence, 1928), p. 137: "Per eliminare ogni errore, nell'ufficio del sacerdote occorre distinguere la potestà sacramentale, cioè di legare e di assolvere gli uomini dal peccato e di conferire al eucaristia, autorità essenziale e inseparabile dal sacerdote in quanto sacerdote, da una diversa potestà, avente origine in un'umana istituzione, per cui un sacerdote istruisce nella legge divina un determinato numero di persone e ne cura le loro anime, inviato in quel determinato luogo per un pubblico incarico. Abbiamo da un lato una istituzione sacramentale, dall'altro una istituzione beneficiaria." Jeannine Quillet, *La philosophie politique de Marsile de Padoue* (Paris, 1970), p. 178: "La seule source de vérité en matière de foi est le donné révélé dans les Evangiles. Tous les autres textes, d'origine humaine, sont sujets à caution..." Georges de Lagarde, *La naissance de l'esprit laïque au déclin du moyen âge*, vol. 3: *Le Defensor pacis* (Paris, 1970), p. 189: "C'est parce que Marsile a reconnu l'existence d'une loi divine extérieure à la loi humaine que le problème de l'autorité spirituelle se pose à lui avec particulière acuité. Les anciens, dont Aristote lui a transmis la sagesse, intégraient sans hésitation dans leur cité un sacerdoce, dont ils étaient les inventeurs. Or, dès le début du *Defensor*, Marsile a consacré de longues pages à nous montrer que le sacerdoce chrétien, à la différence du sacerdoce païen, n'était pas d'invention humaine, mais d'institution divine."

⁶ Alan Gewirth, *Marsilius of Padua and Medieval Political Philosophy* (New York, 1951).

⁷ See also my "The Nature of Grace and its Relation to Political Philosophy in Marsilius of Padua's *Defensor pacis*," in *The World of Marsilius of Padua*, ed. Gerson Moreno-Riaño (Turnhout, 2006), pp. 143–61.

for it are matters of intense dispute. Labanca, Battaglia,⁸ Quillet, Grignaschi, Lagarde, and Löffelberger maintain that Marsilius means what he says: there is an irreducibly spiritual and theological element to the Church. Gewirth is more skeptical. He questions the practical independence of divine law from human law,⁹ and he attributes rather base political motives to Marsilius' theological doctrine of the priesthood.¹⁰ Alexander D'Entrèves and Carlo Pincin do not enter into the details of Marsilius' theology, but they share the view that the sincerity of Marsilius' theology is questionable. D'Entrèves repeats the claim that Marsilius is "homo Aristotelicus magis quam Christianus,"¹¹ and Pincin asserts that Christianity is, for Marsilius, a bothersome social problem, not a subject worthy of interest in itself.¹² In fact, according to Pincin, Marsilius would have preferred to have ended the *Defensor pacis* with Discourse I.

Several reasons might explain why the secondary literature on Marsilius' spiritual theology is one of the least developed areas of his thought. Modern scholars may share Pincin's view that the discussion of religion in Discourse II is of merely historical interest in comparison with the more enduring philosophical approach of Discourse I, though, of course, there are philosophical strands in Discourse II and theological ones in the Discourse I. Battaglia warns his readers that

⁸ Battaglia believes that both divine and human elements are discernible in Marsilius' church, but the human is more important. See *Marsilio da Padova e la filosofia politica*, p. 109.

⁹ Gewirth, *Marsilius of Padua and Medieval Political Philosophy*, p. 164: "Thus from his initial emphasis upon the 'diversity' of human and divine law, Marsilius concludes their practical identity..."

¹⁰ See Gewirth, *Marsilius of Padua and Medieval Political Philosophy*, p. 80.

¹¹ Alexander Passerin D'Entrèves, *The Medieval Contribution to Political Thought* (New York, 1959), p. 87: "From this standpoint indeed Marsilius can only appear to us, as he is, a product of his age, a medieval Aristotelian, even though 'homo Aristotelicus magis quam Christianus.'"

¹² Carlo Pincin, *Marsilio* (Turin, 1967), pp. 112–13: "L'ideale di Marsilio non è un ideale religioso, ma un ideale politico, vicino a quello della società antica. Se, scritto il primo discorso, per il resto della sua opera si occupa di problemi religiosi, è in quanto essi sono problemi politici. La religione cristiana non rappresenta una scelta di Marsilio, ma un dato, un fatto del quale egli deve tener conto nella misura in cui ricerca una efficacia della propria opera... Marsilio fu noto soprattutto come uno che si occupasse di problemi religiosi: è il prezzo di fraintendimento da lui pagato per essersi occupato dei problemi del proprio tempo nel modo giusto, cioè efficace. Se avesse voluto scrivere solo per i posteri, se come un sognatore avesse voluto affidare alle generazioni avvenire il suo messaggio nella bottiglia, si sarebbe fermato alla fine del primo discorso."

the discussion of the Church as spiritual is necessary but boring.¹³ The silence of other scholars may be explained by their agreement with Gewirth that Marsilius' theology is purely instrumental. Perhaps the most likely explanation is that Marsilius is now studied more by professional philosophers than he is by professional theologians, though the neglect of Marsilius by theologians cannot be explained by an absence of unique and important theological material in the *Defensor pacis*. Contemporary (as opposed to medieval) philosophers are hesitant to embark on a discussion of the purely theological, but the nature of the *Defensor pacis* requires us to ignore the strict professional boundaries between philosophy and theology. It is only by entering into the specifics of Marsilius' spiritual theology that one can adequately determine whether his theology is irreducible or reducible to political philosophy, i.e., whether Marsilius is "magis Aristotelicus quam Christianus."

Leo Strauss provides an illuminating example of the dilemma that the modern political philosopher faces in reading Marsilius. Strauss states that Marsilius' political philosophy can and should be separated from his political theology:

But we cannot go into Marsilius' doctrine of the Church although it was of the greatest political importance, especially during the Reformation, for that doctrine belongs to political theology rather than to political philosophy. By following this distinction, we do not distort Marsilius' teaching, for he himself distinguishes throughout his work the political teaching which is "demonstrated" by "human demonstration" from the political teaching which is revealed by God immediately or mediately and is therefore accepted by simple faith as distinguished from reason.¹⁴

Nothing, it would seem, could be clearer: the reader can separate Marsilius' philosophy from his theology because Marsilius himself did so. Nevertheless, Strauss goes on to describe Marsilius' political thought as a new account of the relation between nature and grace: "One is tempted to express Marsilius' thought by saying that it was nature which perfected grace rather than grace which perfected nature."¹⁵ If Marsilius' is reversing the traditional medieval understanding of

¹³ Battaglia, *Marsilio da Padova e la filosofia politica*, p. 111: "La delimitazione tra spirituale e temporale deve farsi su un terreno più rigido ed esatto. Questa lunga analisi, alquanto noiosa, è necessaria per intendere lo sviluppo della teoria marsiliana, e le sue conseguenze ci si dimostrano subito nella limitazione del potere papale."

¹⁴ Leo Strauss, "Marsilius of Padua," in *History of Political Philosophy*, ed. Leo Strauss and Joseph Cropsey (Chicago, 1987), pp. 276–77.

¹⁵ Strauss, "Marsilius of Padua," p. 288.

the relationship between nature and grace, it follows that one cannot understand Marsilius' political thought without understanding his doctrine of grace and that to view grace only from the perspective of nature risks predetermining the account of grace. Strauss is certainly correct that Marsilius' political account of nature and grace is revolutionary, but to understand that revolution, it is necessary to address the nature of grace in the *Defensor pacis*.¹⁶

II. FAITH

Scripture as the Content of Faith

In I.v.14, Marsilius succinctly explains what Christianity is and why it is true:

Now correct views concerning God were not held by the gentile laws or religions [*leges aut secte*] and by all the other religions which are or were outside the catholic Christian faith [*catholicam fidem christianam*] or outside the Mosaic law which preceded it or the beliefs of the holy fathers which in turn preceded this—and, in general, by all those doctrines which are outside the tradition of what is contained in the sacred canon called the Bible. For they followed the human mind or false prophets and teachers of error.¹⁷

¹⁶ Stephen Torracco's *Priests as Physicians of Souls in Marsilius of Padua's Defensor Pacis* (San Francisco, 1992) attempts to provide a "Straussian" account of grace in the *Defensor pacis*. Torracco sees Marsilius as addressing the Platonic problem of bringing philosophy down from heaven into the city (*Priests as Physicians of Souls*, p. 240). The Christian priesthood, albeit indirectly, becomes the way that the philosopher can influence the city. Philosophy is a medicine to cure the oligarchic priesthood, and, at the same time, the Christian priesthood gives the philosopher a place in the city: "Because of the fortunate possibilities and the unfortunate state of affairs, Marsilius suggests that the practical and theoretical habits of mind should perfect the soul of the priest. The immoderate acts of the priests (desire for wealth and political power) would be moderated. The priests would then be able to moderate the acts of other citizens. When, through the practice of the liberal arts, the divine immanence of philosophy perfects the immanence of God's grace, the priesthood becomes that practical way in which the philosopher can humanize civil life" (*Priests as Physicians of Souls*, p. 99; see also pp. 252 and 367). According to Torracco, grace is perfected by nature as the priest is "transubstantiated" into the philosopher: "One might even say that the ideal aim of Marsilius' exercise of the 'key of knowledge' of spiritual things is the transubstantiation of the priestly character into the *habitus* of the first philosopher" (*Priests as Physicians of Souls*, p. 255).

¹⁷ Marsilius of Padua, *Defensor pacis* I.v.14: "Verum quia gentiles et omnium relique leges aut secte, que sunt aut fuerunt extra catholicam fidem christianam, aut que ante ipsam fuit Mosaicam legem, vel que ante hanc fuit sanctorum patrum credulitatem,

At best, pagan laws and sects were the products of human reason that promised rewards and punishments in a future world. Like Christianity, pagan religion is not based on demonstration, since a future world is beyond the scope of philosophy; unlike Christianity, pagan religion is a political necessity invented by philosophers to ensure obedience to human law.¹⁸ The necessity in pagan religion is prudential; i.e., it is a necessary means to the end of temporal peace. Christianity can and should play the role enjoyed by pagan religions in the city because some religion is politically necessary, but the Christian law of rewards and punishments in the future world has a truth that goes beyond political necessity.

Christianity differs from pagan religion in its origin. Pagan religion has a human origin and Christianity a divine one. The Christian law of rewards and punishments in the future world is authored by God himself, and so the truth of the catholic and Christian faith is proved by authority: since Jesus Christ is divine and the author of the evangelic law, it is not only a useful means but a true end.¹⁹ Pagan religions are indistinguishable from human law because their author is human and their truth is based solely on their political utility, whereas the evangelic law is truly another law—an eternal law, although it will not become a law in the full sense of having coercive power until Christ rewards and punishes at the end of this world.

The Mosaic law is law no longer.²⁰ The authority of the old law was ultimately God, but it was mediated through a prophet, i.e., Moses, and, while it removed punishment, the Mosaic law did not cause one to merit the reward of eternal life.²¹ Christ's authority exceeds that of Moses, and Christ's law, although it is properly speaking a law only at the end of this world, surpasses the Mosaic law because the evangelic law causes the observer to merit eternal life. Therefore, since the eternal law is preserved in the sacred canon, and since the evangelic law has superseded the Mosaic, the true eternal law is contained in the

et generaliter extra tradicionem eorum, que in sacro canone, vocata Biblia, continentur, non recte senserunt de Deo, ut quia humanum ingenium secuti sunt aut falso prophetas ve doctroes errorum..."

¹⁸ See Marsilius of Padua, *Defensor pacis* I.v.11.

¹⁹ See Marsilius of Padua, *Defensor pacis* I.vi.4.

²⁰ See Marsilius of Padua, *Defensor pacis* II.ix.10.

²¹ See Marsilius of Padua, *Defensor pacis* I.vi.3.

books of the New Testament. The content of Christian faith is identical with the written word of the New Testament.²²

Marsilius' identification of true eternal law with the New Testament requires not only a separation of old and new divine law but also a separation of divine law from human law.²³ The problem with the mixture of divine and human law in the claim to *plenitudo potestatis* is not merely that the pope and cardinals have appropriated the authority of the only law in this world, i.e., the human law enacted by the *legislator civilis*, but that the true eternal law is alone certain because only it has a divine origin. Human reasoning, including that of the Fathers of the Church, the saints, and all who hold office in the Church, is fallible. If Scripture is the single source of divine revelation to the Church, it is there that the spirituality of the Church is to be found.²⁴ Gewirth sees this identification of revelation with text as a reduction of the evangelic law to an external and positivistic body of regulations.²⁵ For Marsilius, however, as Gewirth himself acknowledges, it is a return to the teaching of Christ.²⁶

Once revelation and Scripture are identified, the question of interpretation becomes central. Is not the agent responsible for determining the meaning of the text, whether it be an ecclesial office or an individual believer, in effect a secondary source of revelation, or at least a judge of revelation? Marsilius' response is to insist that there is no distance between the meaning of the text and the text itself. The New Testament is to be understood literally:

Moreover, the same is shown very evidently by Christ's words and example... Now this passage from the gospel contains and demonstrates our proposition much more clearly than do the glosses of the saints,

²² Lagarde, *Le Defensor pacis*, p. 211: "Le dépôt de la vérité révélée est fixé dans un document incontestable et immuable à la portée de tous." Michael Löffelberger, *Marsilius von Padua: Das Verhältnis zwischen Kirche und Staat im "Defensor pacis"*, Schriften zur Rechtsgeschichte 57 (Berlin, 1992), p. 121: "Für Marsilius bilden ausschließliche die Gebote und Verbote des Mosaischen und des Evangelischen Gesetzes das göttliche Gesetz. Es ist grundsätzlich geschriebenes Gesetz. Marsilius steht insoweit in Gegensatz zu Thomas von Aquin. Nach diesem ist das Neue Gesetz nur in sekundärem Sinne geschriebenes Gesetz."

²³ See Marsilius of Padua, *Defensor pacis* II.xix.6, II.xix.4, and II.iv.2.

²⁴ Marsilius of Padua, *Defensor pacis* II.ii.5: "Rursum ad propositum magis dicitur hoc nomen *spirituale* de lege divina, de doctrina et disciplina preceptorum et consiliorum secundum ipsam et per ipsam."

²⁵ See Gewirth, *Marsilius of Padua and Medieval Political Philosophy*, p. 153.

²⁶ See Gewirth, *Marsilius of Padua and Medieval Political Philosophy*, p. 75.

because the latter assume that the literal meaning, such as we have said, is manifest, and have devoted themselves to the allegorical or mystical meaning.²⁷

Only the literal sense of Scripture is binding: only the literal sense is eternal law because it alone possesses divine authority, whereas any non-literal interpretation has a merely human authority. Thus, the spiritual meaning of Scripture is not the allegorical or mystical meaning but the literal reading of the text. "Spiritual reading" is confined to the letter, and the further removed one is from the literal meaning of the words, the less spiritual and more fallible the interpretation.

It was, of course, St Augustine who had so decisively expressed for Latin Christendom the necessity of non-literal interpretation of Scripture. In *Confessions* V.14, Augustine recounts how his literal understanding of the Old Testament had killed him by leading him to the Manicheans, and how he had been awakened by Ambrose to a "spiritual," i.e., allegorical or non-literal, mode of interpreting the Old Testament. This theme is echoed in *De doctrina Christiana* III.5.9, where the letter kills and the allegorical—the spirit—gives life. The literal meaning is carnal; the hidden is spiritual. Marsilius reverses the parallel: the spiritual meaning is the literal, whereas the allegorical is carnal because it is based on the fallibility of the human mind. Augustine needed a figurative interpretation of the Old Testament because its literal meaning (especially its materialistic descriptions of God) was at times contrary to reason and to the literal meaning of the New Testament. The papalist party, by contrast, does violence to Scripture, since it relies on an excessively literal reading of the Old Testament and an excessively allegorical reading of the New Testament to support its claims to coercive power. Marsilius, however, has already resolved the problem and has cleared the way for a literal reading of the New Testament by showing that the Old Testament is no longer law. When the Old Testament was law, its literal meaning was binding, though it also foreshadowed the evangelic law, which will be law at the last judgment. Since the teaching of the new law has supplanted the old,

²⁷ Marsilius of Padua, *Defensor pacis* II.iv.8: "Amplius ostenditur idem evidentissime verbo et exemplo Christi... Et licet re vera series evangelica patentissime contineat et demonstret propositum nostrum, amplius quam glosse sanctorum, eo quod sensum literalem, qualem dicimus, tamquam manifestum supponentes, ubique se magis ad allegoricum seu mysticum converterunt..." See also II.xxv.1, II.xxv.7, II.xviii.16, and II.xxviii.25.

its literal meaning is now binding. The attempt to allegorize the New Testament and hold to a literal interpretation of the Old Testament is based on the utterly false notion that there can be more than one law at any time.

Both Lagarde and Gewirth raise the question of whether Marsilius is consistent in his literal interpretation of the New Testament.²⁸ Gewirth suggests that when Marsilius finds the literal meaning inconvenient, such as in the passage about the “two swords” (Luke 22:38), the Paduan resorts to a mystical interpretation.²⁹ Nevertheless, at least with regard to the passage in question, Marsilius does not abandon a literal approach to the New Testament. There is wide agreement, says Marsilius, that Christ is speaking metaphorically about the “two swords.”³⁰ It is not, then, that Marsilius substitutes a metaphorical meaning for a literal one but that the literal meaning is metaphorical: Marsilius resorts to a non-literal reading in order to be faithful to the letter.

A more fundamental question, however, is what Marsilius means by a literal reading. He consistently describes the literal meaning as “evident,” “patent,” or, most commonly, “manifest”: “sensus literalem, qualem dicimus, tamquam manifestum...”;³¹ “in literali et manifesto sensu...”;³² “sensus literalem manifestum sequemer...”.³³ A literal interpretation is one that is immediately understood so that there is no need for the mediated reasoning of demonstration or for exterior

²⁸ See Lagarde, *Le Defensor pacis*, p. 211. Löffelberger, *Marsilius von Padua*, p. 135 argues that the novelty of the *Defensor pacis* is the consistency in Marsilius’ literal interpretation: “A. Gewirth ist zuzustimmen, daß Marsilius mit der Forderung nach wörtlicher Auslegung dieses Ziel verfolgt. A. Gewirth übersieht jedoch, daß in jener Zeit bereits viele Theologen sich für eine wörtliche Auslegung ausgesprochen haben. In der Auseinandersetzung zwischen Kirche und Staat herrschte jedoch die allegorische Auslegung vor.”

²⁹ Gewirth, *Marsilius of Padua and Medieval Political Philosophy*, p. 77: “The crux of Marsilius’ literalism is thus that it insists upon viewing the story of Christ and the apostles in its specific historical context. He hence enjoins all the political disabilities of the ‘primitive church’ upon the pretenders to plenitude of power. This very preoccupation, however, forces Marsilius to recognize the need for ‘mystical’ rather than literal expositions of certain texts, such as the passage concerning the ‘two swords.’ His general method, then, is to follow completely the ‘manifest literal sense’ wherever possible; but when ‘mystical exposition’ is necessary, ‘I shall adhere to the more probable view of the saints.’ We have already seen with what independence Marsilius constitutes himself the judge of the weights of probability here referred to.”

³⁰ See Marsilius of Padua, *Defensor pacis* II.xxviii.24.

³¹ Marsilius of Padua, *Defensor pacis* II.iv.8.

³² Marsilius of Padua, *Defensor pacis* II.xvi.6.

³³ Marsilius of Padua, *Defensor pacis* II.xxviii.1.

illumination. As soon as the words are recognized, the meaning is understood. No special knowledge is required other than that of the language, and thus an absolutely literal reading would be one whose meaning is evident to all who use that language. A literal reading is one in which there should be consensus among readers of that language.

It follows that neither faith nor scholarly training in other texts is required to understand the New Testament, but would Marsilius require knowledge of the New Testament as a whole? Must particular passages be read within the context of the entire New Testament? There is no doubt that Marsilius recognizes a hierarchy within the New Testament. The gospels, i.e., the words of Jesus, serve as a standard for interpreting more obscure passages. Within the words of Jesus, there is a further distinction between his commands and counsels. Moreover, when Marsilius points to the primacy of Christ's words for understanding the meaning of the New Testament, he includes Christ's deeds.³⁴ The gospels contain not only the words of Jesus but also actions that are literal in the sense that they speak for themselves and cannot fail to be immediately understood. There is, for example, no need to allegorize Jesus' payment of tax or his submission to the capital sentence pronounced by the civil authority. For one who knows the deeds of Jesus, there can be little doubt about his words and the spiritual character of the Church. Thus, for anyone who knows the words and deeds of Jesus in the gospels, regardless of whether they are deemed true, the literal meaning of the New Testament is manifest.

While the literal meaning is that which is evident to the many, faith occurs when not only the meaning but also the truth of that meaning appears evident.³⁵ Faith can be defined as taking the literal meaning of Scripture to be true. Christ's commands and counsels are eternal law, which is the New Testament. The command of Christ to follow him is fundamentally a command to accept the letter of the New Testament as true.³⁶ Faith is acceptance of the letter as law: it is obedience

³⁴ See Marsilius of Padua, *Defensor pacis* II.iv.3 and II.iv.8.

³⁵ See Marsilius of Padua, *Defensor pacis* II.xix.2.

³⁶ Marsilius of Padua, *Defensor pacis* I.xix.4: "Unde Matthei 28o et ultimo post sui resurrectionem dixit ad illos: *Euntes ergo docete omnes gentes, baptizantes eos in nomine Patris et Filii et Spiritus Sancti, docentes eos servare omnia, quaecumque mandavi vobis*. Per hoc, inquam, apostulos, quorum nomina satis nota sunt apud Christi fideles et alios quosdam, Christus legem evangelicam conscribi voluit, et per ipsorum dictamina conscripta est velut per organa quedame ad hoc mota et directa immediate divine virtute."

to Christ's commands in the New Testament before they have the coercive force of law at the end of this world. As the meaning of Scripture is inseparable from the letter, so is its truth, and, by consequence, what is believed is not the Church but Scripture.³⁷

In his approach to Scripture, Marsilius is often called a precursor to the Reformation.³⁸ Although, as we shall see, priests are necessary to administer sacraments and the general council has the authority to resolve doubts about Scripture, Marsilius breaks decisively with the preceding medieval tradition with regard to Scripture: by de-allegorizing Scripture, Marsilius de-mystifies it. Since the literal meaning is not only primary (as it is for Thomas Aquinas)³⁹ but is in fact the sole essential and divinely authorized meaning, the New Testament has become accessible to the ordinary reader. The immediacy of the literal meaning and its truth diminishes the need for a priestly mediator when reading Scripture. For Marsilius, the language of the New Testament is not yet the vernacular, but neither is it the original Greek or Hebrew. The literal meaning of Christ's words and deeds is so manifest that it survives translation unscathed. Indeed, the Greek of the New Testament is already a translation, and Marsilius' biblical populism sees no need to look outside a translation of the Greek for the literal, i.e., historical, Jesus.

The General Council

Marsilius acknowledges that it is possible for the literal meaning of Scripture to cease to appear evident. It is not that the literal meaning of Scripture is itself doubtful but that disagreements among human teachers of the New Testament cause confusion. He cites the heresy of Arius as an example.⁴⁰ The unity of faith requires that such doubts be resolved, as in the case of Arianism, through a general council.⁴¹ Faith is one because the literal (as opposed to the allegorical) meaning of the New Testament is one. Since doubt arises through human ignorance and the malice of individuals, it is necessary to return to the

³⁷ See Marsilius of Padua, *Defensor pacis* II.xix.10.

³⁸ See, e.g., Gewirth, *Marsilius of Padua and Medieval Political Philosophy*, p. 75 and Ephraim Emerton, *The Defensor Pacis of Marsiglio of Padua: A Critical Study* (New York, 1951), p. 70.

³⁹ Thomas Aquinas, *Summa theologiae* I.1.10.

⁴⁰ See Marsilius of Padua, *Defensor pacis* II.xx.1.

⁴¹ Marsilius of Padua, *Defensor pacis* II.xviii.8.

unity and clarity of the literal meaning of Scripture through the judgment of the whole Church, which is embodied by the general council, and thus the general council at Nicea in A.D. 325 resolved the doubts raised by Arius.

The general council has the authority to establish the literal meaning of Scripture because it is the Church, the *universitas fidelium*:

And now I am going to show that the principal authority, direct or indirect, for such determination of doubtful questions belongs only to a general council composed of all Christians or of the weightier part of them, or to those persons who have been granted such authority by the whole body of Christian believers. The procedure is as follows: Let all the notable provinces or communities of the world, in accordance with the determination of their human legislators whether one or many, and according to their proportion in quantity and quality of persons, elect faithful men, first priests and then non-priests, suitable persons of the most blameless lives and the greatest experience in divine law. These men are to act as judges in the first sense of the word, representing the whole body of the faithful by virtue of the authority which these whole bodies have granted to them...⁴²

Since a gathering in one place of every believer is impossible, and since the literal meaning of Scripture is that which is universally manifest, all believers must be represented. A general council is an act of the whole, the *universitas fidelium*, without the whole being present. The understanding of Scripture by the general council is extraordinary inasmuch as it is based on the deliberation of a few, but it preserves the manifest meaning that is recognized by all the faithful. Thus, election, the way in which the general council makes the whole present in a part, is the key to its authority.

The elective process for a general council resembles that by which the *universitas civium* establishes the civil ruler: it is a proportional representation based on quantity and quality.⁴³ The greater the quantity, i.e.,

⁴² Marsilius of Padua, *Defensor pacis* II.xx.2: "Huic consequenter ostendo, quod huius determinationis auctoritas principalis, mediata vel immediata solius sit generalis concilii Christianorum au valenciaria partis ipsorum vel eorum, quibus ab universitate fidelium Christianorum auctoritas hec concessa fuerit; sic videlicet, ut communes mundi provincie seu communitates notabiles secundum susi legislatoris humani determinationem, sive unci sive pluria, et secundum ipsarum proporcionem in quantitate ac qualitate personarum viros elegant fideles, prebyteros primum et non presbyteros consequenter, idoneos tamen, ut vita probaciores et in lege divina periciores, qui tamquam iudices secundum iudicis significacionem primam, vicem universitateis fidelium representantes, iam dicta sibi per universitates auctoritate concessa..."

⁴³ See Marsilius of Padua, *Defensor pacis* I.xii.3.

the broader the representation, the greater the quality will be. In the general council, knowledge of Scripture is the most significant requirement with respect to quality, since the matter being judged is divine law. Priests should be qualitatively superior, since they are charged with the task of teaching the divine law, but their preoccupation with what is opposed to eternal law, namely, coercive power in this world, has made them ignorant of both eternal law and temporal law. It is therefore necessary, both with respect to quantity and quality, to include in the general council laity who are trained in the eternal law and laity who are trained in the temporal law.⁴⁴ What is characteristic of Marsilius' conciliarism, as Gewirth notes, is not simply the superiority of the council to the pope but also the role of the laity in the council and, hence, in the Church.⁴⁵ In addition to laity being present in the general council as experts in divine and civil law, it is the civil authority which convokes the council and makes its counsels to be law in this world.⁴⁶ Constantine exemplified the role of the civil ruler when he called the Council of Nicea and enforced its decrees. Priests do not cause the general council to be or to be law, and they do not constitute the whole, either in quantity or quality, of the authority that determines the literal meaning of Scripture.

Marsilius allows that Christ established the priesthood to teach his law and to administer the sacraments, but the hierarchy among priests, e.g., the offices of bishop, cardinal, and pope, are mere human institutions, with the result that these offices do not confer special powers to interpret Scripture.⁴⁷ Christ made priests equal; human beings made bishops superior to priests and the bishop of Rome superior to other bishops. The claim that this hierarchy is divinely instituted places the allegorical over the literal, and hence the human and carnal over the spiritual.⁴⁸ The sacramental priesthood has an obligation to teach the divine law, but Marsilius detaches the authority to resolve doubts about Scripture from the spiritual mission of the priesthood. The authority to determine the literal meaning of Scripture belongs to the whole Church (*universitas fidelium*), which includes both laity

⁴⁴ See Marsilius of Padua, *Defensor pacis* II.xx.3 and II.xx.13.

⁴⁵ Gewirth, *Marsilius of Padua and Medieval Political Philosophy*, p. 286.

⁴⁶ Marsilius of Padua, *Defensor pacis* II.xxi.1ff.

⁴⁷ See Marsilius of Padua, *Defensor pacis* I.xix.6, II.xv.10, II.xvii.9, III.xxiii.

⁴⁸ Marsilius argues that, according to the literal sense of Scripture, St Peter was bishop of Antioch, not bishop of Rome: see Marsilius of Padua, *Defensor pacis* I.xix.7 and II.vi.9.

and clergy. Sacramental priesthood does not confer power to represent the whole Church: quantitative and qualitative representation requires that the differences between the laity and the priesthood be represented as well as the common capacity of laity and priesthood for knowledge of Scripture.

The papal claim to *plenitudo potestatis*, whereby the pope can represent the whole Church because he represents the authority of the people as *universitas civium* and *universitas fidelium*, is based on a false reading of Matthew 16:19 in which Christ gives the “keys” to Peter and his successors.⁴⁹ There are four parts to Marsilius’ reply, i.e., to his interpretation of this and similar passages. The first and most important counter-argument is the words and deeds of Christ, which evidently show that Christ refused coercive power.⁵⁰ The claim of the oligarchic priesthood to represent the whole Church is inseparable from the claim to the coercive power that belongs to the human legislator, but Christ explicitly refused such power. The next step is to show that the apostles likewise refused coercive power. Marsilius bases this argument on the words and deeds of the apostles and the conformity of these scriptural witnesses to the definition of law in Discourse I.⁵¹ Third, in Chapters 6 and 7 of Discourse II, he shows the true meaning of the “keys,” which does not involve coercive power. Finally, he confirms all of the previous arguments with the scriptural demonstration that the priest should be a “perfect” Christian, one who obeys the counsels as well as the commands of Christ. Poverty is a counsel of Christ, and hence the priest cannot own property or exercise coercive power.⁵² In sum, for the pope to have the spiritual authority to represent the whole Church and thus to define doubts about Scripture, it would be necessary to make the much broader claim to coercive power and *plenitudo potestatis*, which is incompatible with the literal meaning of Scripture and sound philosophy.

Among commentators on the *Defensor pacis*, there is little or no dispute about the nature and functioning of the general council. The questions that arise chiefly concern whether Marsilius’ emancipation of the laity from the oligarchic priesthood through the general council entails a reduction of the spiritual to the temporal, that is, a reduction

⁴⁹ Marsilius of Padua, *Defensor pacis* II.iii.2.

⁵⁰ Marsilius of Padua, *Defensor pacis* II.iv.12.

⁵¹ Marsilius of Padua, *Defensor pacis* II.v.1. See also II.v.3.

⁵² Marsilius of Padua, *Defensor pacis* II.xi.3. See also II.xiii.22 and II.xiii.26.

of theology to philosophy. Gewirth maintains that the Marsilian doctrine of the general council amounts to control of the Church by the laity.⁵³ While the priests are called to spiritual perfection by following the counsel as well as the commands of Christ, and although they are charged with teaching the divine law and administering the sacraments, it is the *universitas fidelium* and not the clergy who “control excommunication, elect the priesthood to its posts, define articles of faith through the general council, elect the council, make binding all its decisions, and elect the pope or ‘head bishop.’”⁵⁴ It follows that “the makers of human law are in final control over the determination of the meaning of divine law.”⁵⁵ For Gewirth, it is precisely the literal or spiritual meaning of divine law that is jeopardized by the laicization of ecclesial authority.

Lagarde, Quillet, and Torracco focus on the general council’s infallibility. The determinations of Scripture made by the general council are infallible because they are guided by the Holy Spirit.⁵⁶ Lagarde sees a contradiction here between Marsilius’ assertion that everything outside Scripture is fallible and the general council’s infallibility.⁵⁷ Quillet points to the similarity between the infallibility of the general council and the philosophical justification for the whole people as the foundation of political authority: “Le concile général est donc infaillible, en vertu du principe aristotélicien déjà utilisé dans la *Prima Dictio* selon lequel la multitude toute entière voit plus juste que quelques individus isolés.”⁵⁸ Torracco sees an identification of the Holy Spirit with nature:

Central to Marsilius’ application of his populism to the matter at hand is the fact that he subtly equates the natural principle of all human acts

⁵³ Gewirth, *Marsilius of Padua and Medieval Political Philosophy*, pp. 262–63: “He weakens the continuum between priesthood and God, reverses the superiority of clergy over laymen, and equalizes priests, bishops, and pope in that respect in which their authority had been considered unequal. This revolution is accomplished by the different interpretation which he places upon the definition of the church as the *universitas fidelium*. The phrase ‘of the faithful’ no longer means that the laity are the subjects of a ruling hierarchy. Instead, it means not only that the church exists for all the faithful, but even more important, that the church is controlled by all the faithful, not merely by the clergy or the pope.”

⁵⁴ Gewirth, *Marsilius of Padua and Medieval Political Philosophy*, p. 263.

⁵⁵ Gewirth, *Marsilius of Padua and Medieval Political Philosophy*, p. 163.

⁵⁶ Marsilius of Padua, *Defensor pacis* I.xix.3.

⁵⁷ Lagarde, *Le Defensor pacis*, p. 215.

⁵⁸ Quillet, *La philosophie politique de Marsile de Padoue*, p. 179.

(commanded or noncommanded), namely, the desire for the sufficient life (I,4.2), with the infallible guidance of the Holy Spirit, and the path of nature “which does nothing in vain” (I,6.3; 7.1) with the provident activity of God.⁵⁹

The infallibility of the people as *universitas fidelium* differs little from the infallibility of the people as *universitas civium*. Guidance by the Holy Spirit is a return to that which is evident or literal, not a supernatural insight into the meaning of the text.

So, does the absence of spiritual power in the Christian priesthood, especially with respect to determining doubts about the meaning of Scripture, diminish the spirituality of the Church? Marsilius’ intention is precisely the opposite: Only if priests are powerless with respect to coercive force is there spirituality in the Church, because only then is there a difference between eternal and temporal law. The objection that Marsilius’ understanding of the relation between the priesthood and laity reduces the spiritual to the temporal is based on the more fundamental objection that his definition of law reduces all political authority to coercive force, as opposed to Aquinas, for example, who had a more analogous understanding of political power that allowed for a “spiritual” or ecclesial power different from civil power.⁶⁰ Marsilius’ view of spirituality in the Church as powerlessness, which is exemplified in the counsel of poverty that is mandatory for priests, returns power stolen by the oligarchic priesthood to the people—in part to the people as human legislator, and in part to the people as laity.

The strength of Marsilius’ position on the priesthood and the laity is how firmly rooted it is in the foundations of his philosophy and theology. The powerlessness of the priesthood follows directly from Marsilius’ philosophical starting point, namely, his definition of law. Once this definition of law is granted, it is difficult to dispute that the priesthood is powerless. Furthermore, not to grant this definition of

⁵⁹ Torraco, *Priests as Physicians of Souls*, p. 227.

⁶⁰ Gewirth, *Marsilius of Padua and Medieval Political Philosophy*, pp. 276–77: “Thus the same scriptural texts which had been invoked against the coerciveness of divine law, and hence of priests over laymen, are now used against any kind of divinely based authority for pope or bishops over other priests... This point shows clearly the effect of Marsilius’ reduction of all political authority to coercive power. Hence where Thomas Aquinas had placed hierarchic political authority in a setting which emphasized its continuity in all orders, including the cosmological, Marsilius sharply separates political from ecclesiastic authority by emphasizing the specifically coercive quality which he has assigned to the former.”

law, he argues, condemns Church and state to civil war. From a theological perspective, once the beatitudes and Christ's example are taken as normative for priests, evangelical poverty renders them powerless. Marsilius' opponents must appeal to extra-New Testament authority to support their reading of Scripture, but that is to beg the question. By limiting Scripture to its literal meaning, Marsilius forces his papalist opponents to find in Scripture what took many centuries for ecclesial tradition to develop. Marsilius himself points to the tradition of the early Church in the example of Constantine at Nicea, but he is also able to point to the judgment against Peter by the general council described in Acts 25.⁶¹ Refusal to grant Marsilius' theological starting point in the literal and only the literal meaning of Scripture is blasphemous, inasmuch as it places the human (allegory) over the divine (literal).

For Gewirth, Marsilius' methodology indicates not only a kind of reductionism of theology to philosophy but also Averroism.⁶² Dictio I treats theology and the Church in a secular way, i.e., based on his narrow definition of law: "Hence when revelation is invoked in the second Discourse to 'confirm' the first, a complete, rational, non-supernatural political system lies already at hand, and the texts of Scripture can be so selected and interpreted as to support that system."⁶³ Scripture, according to Gewirth, is not a truly independent source in the *Defensor pacis*, and so it must be used piecemeal by Marsilius to support his philosophy. Nevertheless, if the account of the relation between the priesthood and the people in the *Defensor pacis* is Averroist, it is a peculiar version. Marsilius' literal approach to Scripture is not that of Averroes in *The Decisive Treatise*, where the philosopher can and must read the canonical text allegorically when it conflicts with the conclusions of philosophy. Nor is Marsilius' harmony between philosophy and the literal meaning of Scripture that of Latin Averroism, i.e., the double truth theory whereby a believing philosopher adheres to the literal meaning of Scripture although it contradicts certain conclusions in philosophy.⁶⁴ Although Gewirth's contention is that Marsilius'

⁶¹ See Marsilius of Padua, *Defensor pacis* II.xvi.5.

⁶² Gewirth, *Marsilius of Padua and Medieval Political Philosophy*, p. 43: "The specifically political feature of Marsilius' Averroism consists in his completely secular approach to all aspects of the state, including those connected with religion, theology, and the church."

⁶³ Gewirth, *Marsilius of Padua and Medieval Political Philosophy*, p. 43.

⁶⁴ See D'Entrèves, *The Medieval Contribution to Political Thought*, p. 48.

Averroism is based on the selection of pieces from the New Testament that coincide with his philosophy, it is not immediately evident that it is impossible to reverse the order of the *Defensor pacis* so that the second discourse would come first and the first discourse second. There is no indication, at least with respect to the account of the relation between the priesthood and the people, that a reversal of order would render Discourse II unintelligible. Marsilius' progression in Discourse II through the words and deeds of Christ, to the words and deeds of the apostles, to the meaning of the keys, and, finally, to the counsel of poverty appears holistic enough to stand on its own and to require theological and scriptural rebuttal. In brief, with regard to the methodology in Marsilius' treatment of "spiritual" power, he must be taken seriously both as a philosopher and a theologian.⁶⁵

III. SALVATION

History of Salvation

Commentators on the *Defensor pacis* who treat the spiritual nature of the Church typically focus on Marsilius' spiritualization of the priesthood through stripping it of coercive power (see Part II above) and, secondarily, on sacraments as a reflection of that stripping, especially loosing and binding in the sacrament of penance (see Part IV below). Marsilius' treatment of the spiritual Church, however, is much broader, for he reflects on the nature of salvation, both its history and its causality. The *Defensor pacis* is not a *summa theologica*, but it can be described as a *summa politica* that encompasses both philosophy and theology. Marsilius aims to complete Aristotle's politics, i.e., to make it a *summa politica*, by treating the disease that Christianity introduced into the body politic (I.1). The cure for this disease is both

⁶⁵ Hermann Segall, *Der Defensor Pacis des Marsilius von Padua: Grundfragen der Interpretation* (Wiesbaden, 1959), p. 51. "Aufbau und Inhalt der zu interpretierenden Schrift beweisen, daß in ihr philosophische Untersuchungen des Aristoteles und Offenbarungen der Bibel samt patristischer Literatur koordiniert werden, daß die auf der Zuordnung geistlicher und weltlicher Theoreme basierende Lehre am Ende aber die Sanktion durch den 'Spiritus Sanctus' anstrebt. Marsilius von Padua behauptet grundsätzlich un unwiderlegbar, Gottes Wort, wie es die biblischen Bücher und die Generalkonzile verkünden, anzuerkennen, und kraft dieser Einstellung ist er—entgegen dem oben zitierten Schlagwort seiner Bewunderer und Verächter—mehr Christ als Aristoteliker."

philosophical and theological: it is a return to Aristotle and a return to the New Testament. Indeed, Mario Grignaschi claims that it is the latter that dominates *Defensor pacis*.⁶⁶ Some elements of the faith have little direct bearing on a *summa politica*; e.g., Marsilius says nothing about the Trinity or Christology other than to repeat creedal formulas. At the same time, Marsilius' discussions of salvation and grace go beyond the creedal to the theological, and this is the road less traveled in *Defensor pacis* scholarship.

The disease that entered the body politic through Christianity is the notion that grace is a law in this world. Grace, as understood by Christians, renders Christianity unique among religions and singularly dangerous to political life. The oligarchic priesthood used the doctrine of grace to siphon power from the civil legislator and to assert the superiority in this world of divine law to human law. If grace in the New Testament is not correctly understood, then it appears that Christianity itself, and not the oligarchic priesthood, is the enemy of political life. By returning to the doctrine of grace in Scripture, Marsilius wishes to show the compatibility of political life and scriptural Christianity. The defender of the peace must be a defender of grace as preached by Jesus.

Marsilius' most global discussion of salvation occurs in Discourse I, Chapter 6, when he argues for the necessity of the Christian priesthood in the state in order to teach the true doctrine of eternal salvation. Here Marsilius recounts the history of salvation. Human beings were created in a state of grace, he says, to share in "eternal happiness after the life of the present world."⁶⁷ Grace is not the enjoyment of a supernatural life in this world but an "ordering" (*ordinatur*) of human actions to a superior life in the next world. Adam's sin destroyed grace, i.e., the order or relation between present human acts and happiness in a future world. Knowledge that human beings are no longer ordered to eternal happiness in the next world causes temporal unhappiness in this world.⁶⁸ The loss of grace leaves human beings without hope of happiness in this world or beyond this world.⁶⁹ Rejection of

⁶⁶ See, e.g., Mario Grignaschi, *Une Polémique du Moyen Age sur la Primauté de Pierre et Un Appel pour Une Église Évangélique* (Vienna, 1952), pp. 14–15.

⁶⁷ Marsilius of Padua, *Defensor pacis* I.vi.1: "[U]t capax et particeps esset felicitatis eterne post vitam presentis seculi."

⁶⁸ See Marsilius of Padua, *Defensor pacis* I.vi.2.

⁶⁹ Marsilius of Padua, *Defensor pacis* I.vi.2.

grace harms the human being in three ways on the level of nature. First, it reverses the natural order of original justice in which reason was superior to the passions. Second, it undermines the bodily order of health. Third, it causes knowledge of guilt and thus destroys the original condition of innocence. More important, however, the loss of grace means that the human being is now ordered to punishment, both in this world and in the next. Not only is it impossible to return to the natural conditions of health, justice, and innocence, but it is also impossible to return to a natural ordering of the human being to an end in this world. Once grace is given and the human being is ordered to an end of happiness after this world, the rejection of grace cannot be punished by a return to nature, and a punishment beyond this world is necessary. Although grace is lost through the sin of Adam and Eve, God begins the restoration by issuing commands commensurate with the human capacity to obey.⁷⁰

Salvation history heals like the doctor who prescribes medicine according to the capacity of the patient to tolerate the cure. Marsilius' comparison here of divine providence to Aristotelian nature that does nothing in vain and that proceeds gradually from the imperfect to the perfect invites the question of whether he is reducing salvation history to nature. In fact, there is no mention of grace, either as an ordering to the future world or as a power to obey what is commanded: the capacity to obey commands is natural and is developed naturally. Moreover, what is commanded pertains to this world. The supernatural element is limited to the issuance of new commands by God; what is commanded is natural. God commands as much as human beings can bear, and the more that the commands are obeyed the more that one can bear, as nature is developed through virtue. Disobedience is healed by obedience; the more obedient one is, the more obedient one can become. From God comes the command to obey; from the human being comes obedience.

The first period after the fall, i.e., the time of the least perfect and easiest divine commands, is that of the patriarchs. There are two grades within the patriarchal age: the pre-Abrahamic and the Abrahamic.

⁷⁰ Marsilius of Padua, *Defensor pacis* I.vi.3: "[Deus] voluit, qui numquam facit frustra quicquam, neque deficit in necessariis, humani casus exhibere remedium, tradendo scilicet precepta quedam obediencie, servanda homini, que tamquam contraria transgressionem, sanare deberent egritudinem culpe, que provent ab illa. Processitque in hiis ordinate valde a faciliore ad difficiliora, velut peritus medicus."

Before Abraham, God commanded animal sacrifices, and then to Abraham and his descendants God added the command of circumcision. This is a progression of the less perfect to the more perfect, since the sacrifices were in obedience to God through external temporal goods, whereas circumcision entailed obedience through human flesh. Both, however, were natural remedies inasmuch they healed disobedience by giving to God something within nature.

The gift of the law to Moses commences the second period after the fall. In the Mosaic law, God made additional demands upon Israel and established a priesthood to teach the law. The purpose of the Mosaic law was to command a more strict obedience to God and to provide a partial remedy for sin:

The utility of observing all the prior commands and the Mosaic law was that men would be purged of sin or guilt, both original and actual or freely committed, and would escape and be preserved from eternal and temporal sensory punishment of the other world, although by observing these commands they would not merit eternal happiness.⁷¹

The old law remedies sin in a two-fold way: it removes the fault of sin, both original and individual, and it removes the punishment for sin, both in this world and in the next. The only aspect of sin that the Mosaic law does not remedy is the loss of grace, for the old law is incapable of causing its observer to merit eternal life and happiness. For Aquinas, by contrast, the Mosaic law commands what ought to be done, while the work of remitting sin and the punishment for sin belongs to the new law.⁷² Marsilius understands the remission of sin by the Mosaic law to include even original sin. Remission of sin is thus entirely within the power of the Mosaic law, and the new law is necessary only to restore the meriting of eternal happiness. The Mosaic law, for Marsilius, commands what can be done by human beings without grace, and that is almost everything necessary for salvation short of meriting eternal life. The capacity of human nature to obey the Mosaic law is shown by the fact that those who preceded Christ and who

⁷¹ Marsilius of Padua, *Defensor pacis* I.vi.3: "Horum siquidem omnium priorum preceptorum atque Mosaice legis observacionibus utilitas erat purgacio quedam peccati sive culpe tam originalis quam actualis seu sponte commisse, evasio quoque seu preservacio quedam ab eterna et temporali pena alterius seculi, quamvis ex horum observacione non merentur homines felicitatem eternam."

⁷² Thomas Aquinas, *Summa theologiae* I-II.91.5, 106.2, 107.1, 109.4.

obeyed the old law were retroactively rewarded with eternal life: they needed grace only to merit the reward of eternal life.⁷³

The third period after the fall is the restoration of grace through Jesus Christ:

Hence, most recently of all, through his son Jesus Christ, true God and true man in unity of person, he handed down the evangelical law, containing commands and counsels of what must be believed, done, and avoided. By observance of these, not only are men preserved from sensory punishments, as they had been by observance of prior commands, but also through God's gracious ordainment they merit, by a certain congruity, eternal happiness.⁷⁴

The evangelical law, which Marsilius calls "the law of grace (*lex gratie*)," is new in three ways. First, it issues commands that replace those of the old law; e.g., the precepts concerning the sacraments nullify the old ceremonial requirements. The new law is also stricter, as exemplified by the counsels of perfection (the beatitudes). Second, like the old law, the law of grace removes guilt and sensory punishments, but it does so through the passion and death of Christ and through observance of the new commands. Third, and most importantly, the law of grace causes the one who observes it to merit eternal happiness, which the old law could not do. Teachers of the new law, Christian priests, explain what must be done to merit eternal life. Believers must perform the act, but only Christ causes the act to merit eternal happiness. Without grace, performance of the prescribed act would not merit an eternal reward.

Causes of Salvation

How the law of grace saves can be analyzed through the notions of redemption and merit. In all law, whether human or divine, to save from death is to gain lordship (*dominium*) over the saved.⁷⁵ Ownership

⁷³ Marsilius of Padua, *Defensor pacis* II.vi.5.

⁷⁴ Marsilius of Padua, *Defensor pacis* I.vi.4: "[O]mnium novissime humano generi per filium eius Iesum Christum, verum Deum et verum hominem in suppositi unitate, tradidit legem evangelicam, precepta continentem credendorum, agendorum et fugiendorum atque consilia eorum. Quorum observacione non solum a pena preservantur homines, ut per priorum observanciam, verum ex ipsius graciosa ordinacione merentur ex talibus, congruitate quadam, felicitatem eternam."

⁷⁵ The passage below is part of the papalist argument for *plenitudo potestatis*. Marsilius responds to it in *Defensor pacis* II.xiv.23, where he disputes whether Christ is lord of this world but not the account of redemption. In fact, Marsilius reaffirms in

is a right to possess things. Lordship is the right over a person gained through redemption from death. The passion, death, and resurrection of Jesus makes him lord over all because "through the passion and death of Christ, the human race was redeemed from its guilt and the penalty of losing eternal beatitude."⁷⁶ Here the redeemed is saved from guilt and the punishment of deprivation of eternal happiness. In *Defensor pacis* II.xiv.23, it is redemption from death that causes Jesus to be lord of all: "Or else it must be said that Christ becomes lord over all for that status for which he redeemed us from death. But this is the status of the other world, and not of the present one; for he did not redeem us from this-worldly death, about which human laws speak."⁷⁷ Observance of the old law removed original and personal guilt and sensory punishments, though obedience to Christ and his law now replaces that function of the Mosaic law. The death from which Christ redeems us is not temporal, since his disciples die. Thus, the other-worldly death from which Christ's passion, death, and resurrection principally and uniquely redeems the human race is the eternal punishment that deprives us of happiness in the next world. Confirmation that salvation by Christ primarily concerns removal of this punishment and that such is the redemption that makes Christ lord comes from Marsilius' argument that those who succeeded in observing the old law before Christ lived in Limbo, i.e., without sensory punishment but also without the reward of eternal happiness, until Christ's passion, death, and resurrection redeemed them.⁷⁸ Christ's death removed that punishment and, consequently, made him the lord of the entire human race.

Marsilius is silent about how Christ's death and resurrection remove the punishment of loss of eternal beatitude. The foregoing does, however, explain something about how the lordship of Christ is a power

II.xiv.23 the account of redemption found in II.xiv.5, to wit: "Primum quidem, quoniam secundum leges etiam humanas, qui aliquem redimit a morte, illius dominus efficitur et per consequens omnium suorum temporalium. Sed Christus nos a morte redimit, non quacumque, sed ab eterna; ergo nostrorum corporum et temporalium acquisivit dominium."

⁷⁶ Marsilius of Padua, *Defensor pacis* I.vi.4: "[P]er Christi passionem et mortem redemptum est humanum genus a culpa et pena dampni eterne beatitudini..."

⁷⁷ Marsilius of Padua, *Defensor pacis* II.xiv.23: "Vel dicendum, quod Christus pro eo statu omnium dominus efficitur, pro quo nos a morte redemit. Hoc autem est pro statu alterius seculi et non presentis; non enim redemit nos a morte huius seculi de qua etiam leges humane loquuntur."

⁷⁸ See Marsilius of Padua, *Defensor pacis* I.vi.5.

to grant the grace of merit and how merit accomplishes our salvation. Redemption is a legal transformation whereby the savior gains a right over the saved that requires the saved to obey the savior. Since Christ's lordship does not concern this-worldly death, i.e., the removal of this-worldly punishment, he does not exercise his lordship in this world.⁷⁹ When Christ will come at the end of this world, it will be with coercive power and as lord. Christ is lord now in the sense that he has already redeemed the human race, but his lordship is exercised only when he rewards and punishes at the end of time. Since the death from which Christ has redeemed us is not in this world, Christ will not reward and punish us in this world. His lordship is the right to reward or not to reward with eternal happiness.

Christ's refusal, even after the resurrection, to exercise his lordship in this world is not weakness but mercy. Rulers in this world must practice justice; that is, they must reward the obedient and punish the disobedient. Christ's lordship, however, is spiritual because it justly rewards and punishes in the next world and exercises mercy in this world. The time between Christ's resurrection and his return in power is the time of mercy because it allows human beings to accumulate merit.⁸⁰ The affliction of those who obey Christ is not just but merciful, inasmuch as it allows them to merit greater rewards in the next world. The non-judgment of the disobedient in this world gives them the opportunity to repent.

Christ's law of grace teaches the way to merit the reward of eternal happiness. Since it does not now reward with eternal happiness, it is not now a law, but Christ has promised that it will become law in the next world. Nevertheless, the law of grace does more than simply teach: it causes the one who obeys it to have a right to reward in the next world. There is no right to such a reward without Christ's death and resurrection, and so it is a law a grace, a free gift of the right to merit the reward of eternal happiness in the next world. The effect of Christ's passion is that human works of obedience to the new law merit that to which they have no right—eternal happiness. The merit, i.e., the right to reward in the next world, exists now through Christ's passion, but that which is merited, i.e., the reward, will exist only when this world ends. The legal transformation brought about by Christ is

⁷⁹ See note 75 above.

⁸⁰ See Marsilius of Padua, *Defensor pacis* II.iv.6.

the meriting of a reward that, properly speaking, is not merited: it is the transfer of a right to a reward from one who deserves it to one who does not. Grace makes that which is undeserved (eternal happiness) to be deserved or merited (through obedience to the new law).

Absent from Marsilius' discussions about grace are the usual medieval distinctions in grace as justifying, sanctifying, prevenient, and so on. Lagarde contends that Marsilius chose not to receive the traditional theological training because he did not value it.⁸¹ If Marsilius' theology is primarily a return to the literal meaning of Scripture, his theological methodology has little need for such distinctions. Marsilius' account of grace would favor the gospels and Jesus' own words, especially Christ's promise to reward and punish when he returns with power. All grace for Marsilius is merit, and all that merits eternal happiness is grace. Grace as merit is the necessary link between a present work and a future reward that is established through the passion, death, and resurrection of Christ. The spiritual life is doing the works that will merit eternal happiness and waiting for Christ's return when that merit will become reward. Grace as merit makes human acts in the present to have a future effect, but that effect will be enjoyed only when the present has become the future, that is, when this world has ended.

Although Marsilius generally avoids the plethora of medieval distinctions about grace, he twice uses the term *congruitas* in I.vi to describe how grace causes us to merit eternal life. Torracco concludes from this usage that Marsilius denies merit *ex condigno* and restricts grace to merit *congruitate quoddam*.⁸² Aquinas had asserted that grace merits

⁸¹ Georges de Lagarde, *La naissance de l'esprit laïque au déclin du moyen âge*, vol. 2: *Marsile de Padoue, ou le premier théoricien de l'État laïque* (Paris, 1948), p. 74: "De tous ces indices concordants, il est peut-être permis de conclure, que Marsile n'a jamais eu souci de s'enquérir d'une science théologique qui lui paraît porter à faux. Il affect généralement de ne pas prononcer le mot d 'théologien.'... Et ce mot est déjà symptomatique de sa prétention de renouveler les études sacrées par un retour direct aux textes scripturaires." See also Lagarde, *Marsile de Padoue*, pp. 75–76.

⁸² Torracco, *Priests as Physicians of Souls*, p. 93: "In q. 114 [of *Summa theologiae* I–II], Thomas argues that by this grace freely bestowed by God, our actions merit external life *ex condigno* (by a strict equality). Without grace there cannot be any merit *ex condigno* because of the greatest inequality between God and man. Instead there would be *congruitas ordinatione Dei* (a proportionate equality by the ordinance of God); for it seems fit, Thomas says, that God should make return, in proportion to the excellence of His Power, to the man who acts in the degree of his own power. The positions of Marsilius and Thomas are in direct conflict. What Thomas says would be the case (*congruitas ordinatione Dei*: the proportionate equality by God's ordinance) only with the absence of grace, Marsilius argues is the case even with the presence of

eternal life by strict (condign) equality: the reward is strictly deserved or justified through the undeserved gift of grace. In the absence of grace, according to Aquinas, there is no such equality and thus no necessity to reward: the (naturally) virtuous human being does not merit the eternal life of God except by analogy or congruity. If Torraco is correct that Marsilius denies grace as condign merit, it would appear that the *Defensor pacis* reduces grace to nature, since the merit of grace is no different than the merit of nature.⁸³ Torraco supports his contention that Marsilius denies grace as condign merit with a passage that Marsilius adopts from Ambrose about congruous or proportional merit.⁸⁴ Marsilius' intention, however, in the text from Ambrose, and likewise in the two descriptions of grace as congruous merit, is to show that human beings are not equal to each other in merit. The inequality is not, in fact, among human beings and God but between human beings who observe more or less the law of grace by which eternal reward is merited. To the degree that one obeys the commands and counsels of Christ, one merits a reward, and that is congruous or proportional merit. Nevertheless, eternal happiness could not be merited to any degree without the passion, death, and resurrection of Christ that causes acts of obedience to have an eternal reward in the future. In other words, Marsilius holds first and foremost that grace is condign merit because virtuous nature is incapable of meriting eternal happiness, which is evident in the fact that the virtuous who obeyed the old law were restricted to Limbo before the coming of Christ. He also holds that grace is congruous inasmuch as one can merit more

grace. Later when examining the consequences of the observance of supreme poverty, Marsilius quotes Saint Ambrose, 'For your hardships will be repaid with equal glory,' and he interprets 'equal' as 'proportional' (*proportionalis*). (II,13.25)."

⁸³ This is not the conclusion that Torraco himself reaches, although he does see Marsilius emphasizing nature: "Over and against Thomas and his less prudent successors, Marsilius uncompromisingly follows the path of nature" (*Priests as Physicians of Souls*, p. 95).

⁸⁴ Marsilius of Padua, *Defensor pacis* II.xiii.25: "Quod autem tristia sustinere in hoc seculo et a delectabilibus abstinere propter Christum, sit meritorium et consilium, apparet evidenter Matthei 5o et 19o ac Luce 6o, unde quantum ad tristium toleranciam: *Beati pauperes... Idem 2 ad Corinthios 1o, cum dixit quoniam sicut socii passionum estis, sic eritis et consolaciones*. Ubi Ambrosius: *Quia equa gloria labori vestro retribuetur*, id est proporcionalis. Ad hec autem seculi tristia et incommoda sustinenda non se omniunque sic disponunt collegia personarum habencium dominium temporalium in communi, quinimo minus multis pauperibus in seculo, coniugatis, habentibus quandoque propria, eis tamen que ad vite sufficienciam sepius egentibus, hiis qui talia solum possident in communi."

or less eternal reward through obedience to the new law. Merit is by degree (congruity), but there would be no merit at all without Christ whose redemption creates the (condign) equality between the present human act and the future eternal reward.

Although both Marsilius and Aquinas hold that grace is condign merit, their understandings of condign merit differ significantly. For Marsilius, grace is a legal transformation that gives the Christian a right to a future reward. Grace changes the graced in the present by giving him a new relation to the future: it is in the believer's future and not in his present that he possesses that to which he has the right. By grace, the present act has effected a new future, but the reward of eternal life remains in the future until this world ends. It is not until the law of grace truly becomes law through judgment that eternal life will exist in the Christian. It is upon this basis, and not by means of a claim that he denies condign merit, that Marsilius' doctrine of grace can be called "extrinsic."⁸⁵ Grace is a relation to a world and a reward that are yet to come. By comparison, Aquinas' understanding of grace as condign merit is intrinsicist. Merit and reward are not divided into present and future. For Aquinas, eternal life has begun to exist in the soul through grace, and, as for the Fathers in the patristic age, the effect of grace in the present is deification.⁸⁶ The soul is able to merit *ex condigno* because it is being made like Christ through grace.

The debate over grace as principally a right to a future reward (Marsilius) or as deifying (Aquinas) centers on the question of whether grace is a power to obey the commands of the new law. As we have seen, Marsilius holds that the old law could be observed. Grace through the death and resurrection of Christ was necessary not to enable human beings to obey the divine law but to grant the merit of eternal beatitude. Human beings can obey the law, but they cannot make such obedience merit an eternal reward. The power of grace is the power to merit through obedience to the divine law; it is not power to obey the law. Aquinas maintains that new law is new because it contains not only new commands and counsels and a promise of eternal life in the world to come but also a power to obey the new and the old

⁸⁵ Torraco, *Priests as Physicians of Souls*, p. 97: "By this teaching Marsilius anticipates Luther's extrinsicist view of grace... In a word, for Marsilius grace in this world is perfected by nature."

⁸⁶ Aquinas, *Summa theologiae* II-II.23.2 and II-II.24.2.

commands.⁸⁷ Grace, for Aquinas, is not only a right to merit but an internal habit or quality that increases one's ability to do what the law commands. Since charity, the life of the Trinity, begins to exist in the soul through grace, Aquinas sees the Christian as deified and empowered by grace, although that transformation will be completed only in the next world through the beatific vision. The equality of condign merit is the presence of divine life that makes the Christian begin to be a new creation, which is reflected in the increased capacity to live according to the evangelic law.

Gewirth sees the extrinsicism in Marsilius' account of grace as a consequence of his view of the new law as primarily a written doctrine of commands and counsels that is to be read literally.⁸⁸ Löffelberger describes Marsilius' position as voluntarist rather than extrinsicist, for the human will is unaltered by original sin:

In this interpretation of the nature of divine grace, Marsilius fundamentally distinguishes himself. In accordance with Thomas, Marsilius holds that the human being can reach eternal life only through divine grace. Contrary to Thomas, however, Marsilius recognizes a certain self-sufficiency to human merit. The crucial difference is that, for Marsilius, even after the Fall the human being remains in complete control over the free choice between good and evil. According to Thomas, the human being has lost this through the Fall.⁸⁹

If the capacity of the human will to choose and to do what is good is not vitiated in the fall, grace is merit rather than internal habit. Grace

⁸⁷ See Aquinas, *Summa theologiae* I-II, 107.1, ad 2m, I-II.109.4 and *In Epistolam ad Romanos* 2.3, 8.1.

⁸⁸ Gewirth, *Marsilius of Padua and Medieval Political Philosophy*, p. 153: "For Thomas Aquinas, the new law is only in a secondary sense a written law; primarily it consists in the supernatural grace which is an 'endowment' of the human heart, just as natural law is an 'endowment' of human nature. For Marsilius, on the other hand, the divine law consists simply in the writings contained in the New Testament; and as we have seen, he insists upon a literal interpretation of these writings. Hence, whereas for Thomas the new law, as grace, is an immediate aid to its own fulfillment by men, for Marsilius it is a body of regulations external to men, laying down requirements which men must meet in order to attain eternal life."

⁸⁹ "Von dieser Auffassung vom Wesen der Gnade Gottes unterscheidet sich Marsilius grundlegend. In Übereinstimmung mit Thomas kann auch für Marsilius der Mensch nur auf Grund göttlicher Gnade das ewige Leben erlangen. In Gegensatz zu Thomas erkennt Marsilius jedoch eine gewisse Eigenständigkeit des menschlichen Verdienstes an. Entscheidend hierfür ist, daß nach Marsilius der Mensch auch nach seinem Sündenfall grundsätzlich über die Wahlfreiheit zwischen Gut und Böse verfügt. Nach Thomas hat der Mensch dies jedoch durch den Sündenfall verloren." Löffelberger, *Marsilius von Padua*, p. 69. See also p. 63.

is not needed to heal or empower the will. The individual's fear of future punishment and desire for future reward are a sufficient internal impetus to obey the law.

Conclusion: A Philosophy of Grace?

The *Defensor pacis* is a *summa politica* because there is no cure for the political ills plaguing Christendom without a re-spiritualization of grace, i.e., a de-politicization of grace.⁹⁰ The politicization of grace occurred as soon as it was deemed a law in this world. Law requires jurisdiction, a power to enforce by punishing disobedience and rewarding obedience.⁹¹ There was no problem with the Christian notion of grace so long as the rewards and punishments of the divine law were seen as future, in contrast to the temporal rewards and punishments of human law. Although the politicization of grace began in the patristic era, Aquinas provides a clear example of grace transformed into a rival human law. For Aquinas, the force of the new law is not a future reward or punishment but something more internal and present, namely, love (*caritas*).⁹² The force that makes one obey the new law, according to Aquinas, is more powerful than an external and future reward/punishment because it comes from within the individual and is nothing other than the life of the Trinity. The new law is not only a law, it is more of a law than human law because, in the new divine law, there is much less difference between the content of the law and that which causes obedience to the law. The road from here to *plenitudo potestatis* is easy, if not inevitable, Marsilius contends, since Christian priests are entrusted with a doctrine that is both law in this world and superior to human law.⁹³ If both the law of grace and human law are true, and if the presence of both in this world as law profoundly and necessarily disturbs the peace, then, Marsilius concludes, they must be laws at different times. Marsilius' re-spiritualization and

⁹⁰ Torraco, *Priests as Physicians of Souls*, p. 202: "There was no one politically wise enough to steer the Church along the path of nature in the way that prudent men lead the many to civil peace and happiness. The doctrine of grace filled this void, and once its foot was in the door, there was virtually no stopping its full politicization and domination." See also pp. 206 and 329.

⁹¹ See Marsilius of Padua, *Defensor pacis* I.x.

⁹² See note 87 above.

⁹³ See Marsilius of Padua, *Defensor pacis* II.xxiii.5–11.

de-politicization of grace is achieved through its futurization: grace is merit of a future reward and not a power to obey the law.

It is clear how Marsilius' account of grace follows from his definition of law: coercive force is essential to law, and, since there can only be one (human) law in this world, grace is law only in the future. Moreover, this is in accord with the words of Jesus in the gospels in which he promises future rewards or punishments for all those who obey or disobey his commands and counsels. Thus, there are compatible but independent starting points in philosophy and theology for grace as merit of a future reward. The problem for Marsilius comes from the letters of St Paul, e.g., Romans 3:19–25, 7:14–8:4, and Galatians 3:19–22, whose literal meaning seems to be that it is not possible for human beings to observe the Mosaic law.⁹⁴ In addition, the Fathers argue that grace enables one to obey the divine law because it deifies.⁹⁵ Marsilius' *sola littera* approach to Scripture frees him from the merely human authority of the Fathers, but St Paul's letters are less easily dismissed, since they are, for him, inspired by the Holy Spirit. Indeed, it is not immediately evident that it is possible to reverse the order in Marsilius' discussion of grace; i.e., it is less clear that Marsilius' theology of grace could be read first and independent of his philosophical definition of law. That one could begin with the gospels and end with the Marsilian account of grace does not seem impossible. That one could begin with the Pauline letters and end with the Marsilian account of grace requires far more scriptural explanation than the *Defensor pacis* does or perhaps could provide.

While Marsilius would have difficulty with the Pauline teaching on grace, there is another evident standard of truth to defend his account

⁹⁴ Marsilius' references to St Paul's Epistle to the Galatians focus on either Christ's subordination to human law (II.iv.12, II.vii.4) or on Gal. 2:6–9 and authority in the church (II.xv.9, II.xvi.3, II.xvi.4, II.xvi.6, II.xvi.15, II.xvii.2, II.xvii.3, II.xxviii.1, II.xxviii.2, II.xxviii.7, II.xxviii.10, and II.xxviii.22). He does not treat the Pauline assertion that fulfillment of the Mosaic law is humanly impossible. Marsilius' references to St Paul's Epistle to the Romans focus on either the separation of divine and human law through the separation of the spiritual from the carnal (I.x.3, II.ii.5, II.ii.6) or on Rom. 13:1–7 and submission of the church to temporal authority (II.iv.11, II.v.4, II.viii.7, II.viii.9, II.ix.8, II.xvi.15, II.xxvi.13, II.xxx.5). At II.xiii.25, Marsilius says, with regard to Romans 8:18, that voluntary poverty is meritorious.

⁹⁵ For Augustine's position, see *De gratia Christi et peccato originali* 24–26, 36–37; *Enchiridion ad Laurentium de fide, spe, caritate* 9; *De civitate Dei* XXI.16; *De diversis quaestionibus VII ad Simplicianum* I.1.6–14; *Confessiones* VIII.21.27, X.29.40, X.31.45, X.37.60.

of grace, namely, the behavior of Christians. If it were true that grace is a power to obey the divine law, then the Christian laity ought to be more virtuous than non-Christians, since they live by a stricter law that empowers them at the same time that it commands them. Moreover, priests, who must live according to the counsels as well as the commands of Christ, ought to be even closer to perfection than the laity. In fact, one finds unparalleled discord in Christendom, especially in Italy, largely because the priesthood has become a treasonous oligarchy.⁹⁶ Peace is a sign of Christ's grace,⁹⁷ but the traditional understanding of grace has not produced peace because it has claimed power in this world. Transformation, i.e., pacification, in this world comes through human law because it is the only coercive power. The Church's contribution to temporal peace is its renunciation of this-worldly power in exchange for grace, the power that will make eternal peace when this world ends and that allows us now to merit eternal peace when it will come to be.

Since he believes that the tradition of deification going back to the Fathers has distorted the meaning of grace, Marsilius' account of grace is necessarily unique. It appears semi-Pelagian inasmuch as the old law could be observed, and grace is not a power to obey the new law. Nevertheless, nature is not sufficient to merit eternal beatitude, which is a free gift of God. Even if one thinks that, by eliminating the possibility of grace as a present power, Marsilius' definition of law has reduced part of grace to nature, grace as merit is *ex condigno* and caused by the passion, death, and resurrection of Christ. One could imagine Marsilius responding to the charge of Pelagianism by pointing to the different circumstances that he and Augustine faced. With regard to Scripture, against the superabundance of literal-mindedness, Augustine had to emphasize allegory in reading the Old Testament; Marsilius, in contrast, has to emphasize the need for literal interpretation of the New Testament in face of excessive allegorization. So, too, with grace: Augustine had to battle the naturalistic reductionism of Pelagius, whereas Marsilius has to fight the reduction of grace to temporal law.

The novelty of Marsilius' position on grace is apparent again in the question of whether it is Averroist. Grace and nature are not contraries

⁹⁶ See Marsilius of Padua, *Defensor pacis* I.i.7 and II.xxiii.11.

⁹⁷ See Marsilius of Padua, *Defensor pacis* I.i.1.

for Marsilius, inasmuch the natural act done in obedience to the divine law merits, through grace, an eternal reward: present actions can have an effect in a future world. Nonetheless, the futurization of grace constitutes a kind of temporal separation between nature and grace: merit is temporally separated from what is merited. For Marsilius, if grace is not limited to building through present actions a future world, i.e., a future reward, it inevitably sickens into a perverse claim to temporal power in this world. Ultimately, the question of whether Marsilius' doctrine of grace is Averroistic depends upon how one reads St Paul's letters. If Marsilius' position on grace requires that the letter to the Romans and the letter to the Galatians be read non-literally, then the account is Averroistic, for the harmony between faith and reason is then produced by the subordination of revelation to philosophy.

IV. SACRAMENTS

Introduction: Priesthood As Sacramental Power

Defensor pacis I.xix.5 provides an introduction to Marsilius' doctrine on the sacraments and raises important questions about the relationship between the account of grace that we have just examined and his position on the sacraments. Marsilius begins by noting the twofold ministry of the priesthood to teach the new law and to administer the sacraments.⁹⁸ The origin of the priesthood and its sacramental authority is unambiguously divine. Nevertheless, though Marsilius asserts that Christ instituted the sacraments and made the priesthood sacramental, he has already diminished the role of priests as teachers of the law. There is less need for priests to serve as mediators between believers and Scripture if the New Testament is to be read literally and if lay experts in Scripture are capable of serving in the general council. Hence, the questions that typically arise in Marsilian scholarship about the sacraments concern whether, and if so to what extent, the priest is necessary to administer the sacraments.

Marsilius describes the priesthood as possessing three spiritual and sacramental powers. The first is the power to transubstantiate bread and wine into the body and blood of Christ:

⁹⁸ Marsilius of Padua, *Defensor pacis* I.xix.5.

Through this authority he bestowed on these same men and on their successors in this office and on no others, the power (*potestatem*), under the form of certain words said by them collectively or individually, of transubstantiating bread and wine into his true body and blood.⁹⁹

With regard to teaching Scripture, the priest has no special powers: Scripture speaks for itself in its literal sense, and if that is not clear then it is the general council that has, in virtue of its universal representation, a special power to teach the new law. With respect to the sacrament of the Eucharist, however, the priest does have a special power to alter the nature of bread and wine. No lay person can substitute for the priest in this sacramental role. The priest also has the power of the "keys" exercised in the sacrament of penance and the power to ordain other priests in the sacrament of holy orders: "Together with this he granted them the authority to bind and loose men from sins, which is usually called the power (*potestatem*) of the keys, as well as the power (*potestatem*) of appointing other men in their place with the same authority."¹⁰⁰ This threefold sacramental power appears to give the priest in the present time the ability to do what is beyond nature. Although Marsilius denies that new law is a power whose effect is in this world, these sacraments prescribed by the new law do have a transforming power in this world. Why they do not constitute a new power to obey the evangelic law is not immediately evident.

Marsilius goes on to quote the first letter to Timothy: "Neglect not the grace that is in thee, which was given thee by prophecy, with the laying on of the hands of the priesthood."¹⁰¹ Here Marsilius equates these sacramental powers with grace. Moreover, he ends by describing this grace as an internal character or habit: "And this authority of the priesthood and of the keys, whether it be one or many, is a certain character or form (*caracter seu forma quedam*) of the soul impressed through the immediate action of God."¹⁰² The internal power or habit

⁹⁹ Marsilius of Padua, *Defensor pacis* I.xix.5: "Per quam siquidem iisdem aut ipsorum successoribus in hoc officio, non aliis, potestatem contulit sub certa forma verborum ab ipsis et eorum singulis dicta transsubstantiandi panem et vinum in verum corpus et sanguinem eius."

¹⁰⁰ Marsilius of Padua, *Defensor pacis* I.xix.5: "Cum hoc etiam ipsis auctoritatem solvendi atque ligandi homines a peccatis, quam dicere solent clavium potestatem, sibi que alios substituendi eum eadem auctoritate potestatem concessit."

¹⁰¹ Marsilius of Padua, *Defensor pacis* I.xix.5: "Noli negligere gratiam que in te est, que data est tibi per prophetiam cum impositione manuum presbyteri."

¹⁰² Marsilius of Padua, *Defensor pacis* I.xix.5: "Et est auctoritas hec sacerdotalis et clavium sive unica sive plures, caracter seu forma quedam anime per immediatam Dei actionem impressa."

that was absent from Marsilius' account of grace is present in his account of the sacraments, and thus we must ask whether Marsilius' view of the sacraments is consistent with his view of grace. Even if the sacramental power is restricted to the priesthood, does it not constitute a spiritual authority that is neither the coercive authority of the state nor the powerlessness of the priestly teaching ministry? If so, why is it not the basis of a spiritual law in this world? In addition, if the priesthood possesses in this world a supernatural sacramental power, why is not the reception of the sacraments a supernatural aid to obeying the new law? Answering these questions requires an examination of the sacraments discussed by Marsilius.

Sacrament of Penance

Mortal sin produces guilt, a condition that is marked by (1) the loss of grace, i.e., no longer meriting eternal happiness; (2) the earning of punishment, i.e., eternal unhappiness; and (3) excommunication from Christian society.¹⁰³ The effect of the sacrament of penance is a reversal of this condition, for it (1) restores grace; (2) removes the debt of eternal punishment; and (3) reunites the penitent with ecclesial society.¹⁰⁴ Three efficient causes are involved in the sacrament of penance: the penitent, the priest, and God. A certain precondition of intention is necessary on the part of the penitent: he must repent his sin and intend to confess it to a priest at the first opportunity. The intention to confess is necessary, but actual confession to a priest is not:

[L]et us say that for true penance or the true reception of the sacrament of penance it is required, first, that the sinner feel internal contrition or sorrow for the delict committed. Secondly, there is required the intention and act of confessing the delict, by expressing or revealing it in words to the priest, if a priest be available; if he be not at hand, it suffices that the person who is thus penitent or contrite have the firm intention of confessing his guilt to the priest at the first opportunity.¹⁰⁵

¹⁰³ See Marsilius of Padua, *Defensor pacis* II.vi.4.

¹⁰⁴ Marsilius of Padua, *Defensor pacis* II.vi.4.

¹⁰⁵ Marsilius of Padua, *Defensor pacis* II.vi.5: "[D]icamus, quod ad veram penitentiam seu sacramentum penitentie suscipiendum requiritur primum interior peccatoris contritio seu tristitia de commisso sive delicto. Secundo vero requiritur propositum et actus confitendi delictum, ipsum per sermonem exprimendo seu significando sacerdoti, si sacerdotis facultas affuerit; quod si non adesset, in sic penitente seu contrito sufficit firmum propositum confitendi delictum sacerdoti, cum ipsius primum facultas affuerit."

The contrition necessary for absolution is measured by intention rather than action; it is a private, immanent act known to God alone. The verbal act of confession to a priest may be necessary in the future as the opportunity arises, but it is not essential in the present: the sacramental grace of penance, i.e., the restoration of merit, can be received without the mediation of a priest, though it cannot be received if the intention for verbal confession is absent. Thus, Marsilius diminishes but does not entirely eliminate the mediating role of the priest in the sacrament of penance.

Even when confession is made to a priest, the sacerdotal role concerns the third effect of the sacrament, namely, the reunification of the penitent with the society of the faithful. Citing the authority of Peter Lombard and Richard of St Victor, Marsilius describes the power of the keys that the priest employs in the sacrament of penance not as a power of bind or loosing, which is reserved to God alone, but as a power of showing to the Church that the penitent has been "loosed" or absolved by God.¹⁰⁶ The priest is not an instrumental cause of the restoration of grace or the removal of punishment; rather, the priestly power is limited to showing that God has directly and immediately produced these effects, with the result that the penitent is reunited to the Church. Marsilius follows St Jerome in comparing the role of the priest in the sacrament of penance to the role of the Levitical priest in the healing of leprosy. Just as the Levitical priest did not heal the leper but merely showed to the faithful that the leper had been healed by God, so the priest of the new law does not forgive but merely shows to the faithful that God has forgiven the penitent. Marsilius has thus further limited the mediation of the priest in the sacrament of penance: the priest does not mediate grace but the relationship of the penitent to the Church.

The Levitical priest shows the leper to the community as healed based on a physical examination. The priest of the New Testament shows (*ostendere*) the penitent to the community based on the expression of repentance expressed in the sacrament of penance. Hence, the sacrament is necessary not for reconciliation with God but for reconciliation with the Church. It follows that the sacramental power of the keys differs little from the teaching authority of the priest. In the sac-

¹⁰⁶ See Marsilius of Padua, *Defensor pacis* II.vi.7.

rament of penance, the priest acts as a teacher rather than as a judge: he does not bind or loose but teaches about God's binding and loosening. Just as the Levitical priest does not heal the leper, the priest does not reconcile the penitent with the Church; rather, he teaches about God's reconciliation of the penitent with the Church. If the priest were the cause of the sinner being reconciled or not being reconciled with the Church, then God would be bound by the fallible opinions of the priest.¹⁰⁷ The power of the keys is thus the priest's authority to teach about God's pardon in particular cases and, like all priestly teaching authority, it is fallible. Only the general council is infallible. In sum, the sacramental power of the keys is reducible to the priest's teaching authority, and this spiritual "power" is consistent with a denial of an effective law in this world other than human law. The priest does not wield any supernatural power in this sacrament, and the grace that is involved in the sacrament is merit, which postpones deification to the next world.

The debate concerning the sacrament of penance in Marsilian scholarship centers on whether his view is coherent and the degree to which it constitutes a break with tradition. Battaglia expresses the novelty of Marsilius' account as one in which confession to a priest is necessary but not essential and as the beginning of the spirit of the Reformation.¹⁰⁸ Although Marsilius is seen as opening the path to the Reformation, Battaglia argues, on the basis of its concordance with Peter Lombard and the Victorines and because of the limited condemnation of Marsilius by Pope John XXII, that the Paduan's position on the sacrament of penance was orthodox for its time.¹⁰⁹ Gewirth considers Marsilius' position on the priest as necessary but not essential in the sacrament of penance to be either contradictory or opaque and close to the position of the heretical Cathars.¹¹⁰ Lagarde thinks that Marsilius ignored

¹⁰⁷ See Marsilius of Padua, *Defensor pacis* II.vi.9.

¹⁰⁸ Battaglia, *Marsilio da Padova e la filosofia politica*, p. 115: "Il prete, per esempio, rimette i peccati, ma il processo dell'assoluzione non dipende da una sua virtù, bensì da quella di Dio, la cui grazia discende sull'anima intimamente e veramente contrita. Certo la confessione è necessaria, ma non essenziale; mentre il pentimento sincero è non solo necessario, ma essenziale. E ciò è dimostrato dal fatto che, qualora la confessione al sacerdote per straordinarie circostanze non possa aver luogo, ma vi sia la contrizione, il penitente può essere assolto da Dio e salvarsi. Si comincia ad entrare nello spirito della Riforma."

¹⁰⁹ See Battaglia, *Marsilio da Padova e la filosofia politica*, p. 231.

¹¹⁰ Gewirth, *Marsilius of Padua and Medieval Political Philosophy*, pp. 268–69.

two centuries of debate on Peter of Lombard's account of penance.¹¹¹ While Battaglia emphasizes Marsilius' explicit reliance on Peter Lombard and Richard of St Victor, Torracco emphasizes the differences between Peter Lombard and Richard of St Victor as well as Marsilius' divergence from them and their arbitrator, Thomas Aquinas.¹¹² Löffelberger, holding a position similar to Battaglia's, maintains that Marsilius' account of the sacrament of penance was orthodox.¹¹³ While Battaglia holds that Marsilius' position on penance was both orthodox and the beginning of a revolution, Löffelberger stresses that Marsilius' return to the doctrine of the earlier Church is not revolutionary.¹¹⁴

Marsilius' account of the sacrament of penance is, arguably, consistent. Confession to a priest can be both necessary and non-necessary because it is not necessary in the present, if a priest is unavailable, and necessary in the future, when a priest becomes available. The causes

¹¹¹ Lagarde, *Le Defensor pacis*, p. 207: "Non seulement, Marsile ne fait aucune mention de cet approfondissement et de cet élargissement de la thèse d'un Pierre Lombard, que tous les théologiens commentaient à l'envi depuis deux siècles..."

¹¹² Torracco, *Priests as Physicians of Souls*, pp. 211–12: "Marsilius initially appeals to Augustine's and Jerome's views about the keys. (II,6.3) More emphatically, however, he refers to Peter Lombard and Richard of Saint Victor, whose writings he names and with whose views he says he agrees. (II,6.5) Actually, the views of Peter and Richard about Penance conflict, and the eventual arbitrator between them is Thomas Aquinas. But Marsilius creates the impression that the views of Peter and Richard are in harmony. Even so, as his own argument unfolds, it becomes clear that he deviates from the views of both, but not in the direction of Thomas' solution. The significant point of Marsilius' use of the writings of these two authors is not so much the extent to which Marsilius agrees or disagrees with them as the fact that he consciously replaces Thomas as the arbitrator."

¹¹³ Löffelberger, *Marsilius von Padua*, pp. 194–95: "Die Feststellungen G. de Lagarde's zum Sakrament der Buße im 'defensor pacis' sind daher so nicht zutreffend. Sicher will Marsilius den Beitrag des Priesters bei der Spendung des Bußsakramentes auf ein Minimum zurückführen. Doch übersieht G. de Lagarde, daß auch nach der altkirchlichen Tradition alleine Gott dem Menschen seine Sünden vergeben hat... Auch A. Gewirth ist nicht zuzustimmen, soweit er die Position de Marsilius als eine radikale Entfernung von den traditionellen Interpretationen ansieht. Er übersieht ebenso wie G. de Lagerde [sic] die Unterscheidung zwischen der alterkirchlichen Tradition und der neuen Lehre. Nur so ist es auch zu erklären, daß er Marsilius in die Nähe der Katharrer zu rücken versucht. Zutreffend ist hingegen seine Feststellung daß der einzelne Gläubige durch Marsilius in eine direktere Beziehung zu Gott gesetzt wird und daß die traditionelle Sicht des Priesters als wesentlicher Mittelsmann zwischen Gott und dem Menschen hierdurch in Frage gestellt wird."

¹¹⁴ Löffelberger, *Marsilius von Padua*, pp. 260, 261. "Auch seine Auffassung von Bußsakrament ist von der Betonung des Willens geprägt. Marsilius nimmt insoweit die sogenannte altkirchliche Tradition wieder auf, fordert als innere Disposition die 'contritio' des Sünders... Grundlegend revolutionäre Gedanken konnten hinsichtlich der Kirche im 'defensor pacis' nicht angetroffen werden. Alle Gedanken wurden bereits vor Marsilius vertreten."

of the reversal of the first two effects of mortal sin are God and the immanent act of intention by the penitent: the priest is not a cause. The priest is necessary, at least in the future, for a full, i.e., external and transitive, reunification of the penitent with the Church. This is accomplished by verbally expressing to the priest the immanent act of contrition. Since God's pardon is shown rather than given by the priest, the role of the priest is teacher rather than judge.¹¹⁵ The priest in the sacrament of penance is like the turnkey who receives the judgment of the judge and releases the absolved into the public.¹¹⁶ The priest announces the judgment made by another as he announces a law made by another.

With regard to Marsilius' break with tradition there is ultimately more agreement than disagreement among scholars: all agree that Marsilius breaks with one tradition and claims to maintain another. One tradition, which Marsilius believes is rooted in an allegorical reading of the New Testament (especially Matthew 16:19), is the transformation of the power of the keys in the sacrament of penance into the doctrine of *plenitudo potestatis*. The other is the authentic tradition rooted in the literal meaning of Matthew 16:19 that has survived in the writings of Jerome, Augustine, Peter Lombard, and Richard of St Victor. To the unbiased reader, Marsilius believes that his interpretation of Scripture is literal and thus evident. If it is not immediately evident, and if it has not been defined by a general council, on what basis can Marsilius argue for his interpretation? One can begin by comparing the starting points of the two traditions. The opposing tradition begins with an allegorical reading of Matthew 16:19 and ends with the doctrine of *plenitudo potestatis*.¹¹⁷ The allegorical nature of that reading is apparent in its worldliness or carnality, i.e., in its claim to coercive power. Marsilius' reading of the power of the keys in the sacrament of penance presupposes a broader reading of the New Testament in which the subordination of the priesthood to the coercive power of the secular ruler is evident. This literal reading highlights the words and deeds of Jesus, whose subordination to human law was undeniable,

¹¹⁵ Marsilius of Padua, *Defensor pacis* II.vii.5: "Propter quod sacerdos secundum sui officium non debet similitudinarie comparari iudici tercie significacionis, sed prime, habenti scilicet auctoritatem docendi aut operandi quemaDefensor minorodum medicus, non tamen in quemquem per potenciam coactivam."

¹¹⁶ See Marsilius of Padua, *Defensor pacis* II.vii.3.

¹¹⁷ See Marsilius of Padua, *Defensor pacis* II.xxiii.5–11.

and its spiritual and unworldly character is in contrast to the allegorical interpretation of the oligarchic priesthood.

Marsilius' hermeneutic approach is exemplified by *Defensor pacis* II.v.7. He argues there that the priestly power of the keys does not entail authority to coerce heretics. Since only the civil authority has coercive power, i.e., since only human law is law in this world, it belongs only to the human legislator to coerce heretics. Marsilius argues first through the authority of Scripture: Paul's first letter to Timothy urging submission to secular rulers is quoted. Next he adds commentary from St Augustine, who says that the Christian must submit to the wicked secular ruler for the sake of peace. Marsilius then notes that this scriptural argument is confirmed by the philosophical argumentation of the first discourse.¹¹⁸ In brief, Marsilius' literal reading of Scripture is supported by patristic (human) authority; his reading of the Fathers is supported by philosophical reason; reason is confirmed by peace.

Sacrament of Holy Orders

As Gewirth notes, Marsilius focuses on the sacraments of penance and holy orders because they are the most politically significant.¹¹⁹ Contrary to the claims of the oligarchic priesthood, the power of the keys in the sacrament of penance must be shown to be non-coercive, and the power of the priesthood in general must be shown to be equal so that no priest has coercive power over another. Although the priesthood is for the sake of conferring sacraments as well as teaching, the sacramental power of the priesthood is not the basis of a spiritual law in this world. Sacraments are spiritual in the sense of being oriented towards a future world of eternal beatitude, and the sacrament of holy orders is no exception. Ordination does not constitute a new political relationship.

Holy orders have a divine origin because ordination imposes a new character or habit upon the ordinand that is beyond the power of nature.¹²⁰ This character enables the priest to transubstantiate bread and wine and to administer the other sacraments:

¹¹⁸ Marsilius of Padua, *Defensor pacis* II.v.7: "Ecce testimonium eius quod diximus ultimo prime, videlicet quod causa tranquillitatis factiva et conservativa est accio principantis debita, non impedita."

¹¹⁹ Gewirth, *Marsilius of Padua and Medieval Political Philosophy*, pp. 265–66.

¹²⁰ See Marsilius of Padua, *Defensor pacis* II.xv.1–2.

And a similar view must be taken with regard to the bestowal of the other orders whereby a certain character is imprinted on the soul of the recipient. This "priestly character," whether one or many, is the power whereby the priest can consecrate from bread and wine the blessed body and blood of Christ by uttering certain words, and can administer the other ecclesiastical sacraments; and by this character also the priest can bind and loose men from sin.¹²¹

In the sacrament of the Eucharist, the priest causes the change in which the bread and wine become the body and blood of Christ. Whereas God alone is the cause of forgiveness in the sacrament of penance and, as we shall see, the sole cause of the sacrament of holy orders, Marsilius attributes to the priest a direct causal role in the transubstantiation of bread and wine into the body and blood of Christ. Since such power is beyond nature, a new habit or character must be instilled in the soul of the priest at ordination. Marsilius goes on to say that this new character is the source of the priestly authority for his role in the sacrament of penance, though, as we have seen, this authority is not essentially different from the priestly teaching authority, which involves a divine mandate but not a divine power. The sacrament of the Eucharist, in contrast, involves both a divine mandate and a divine power that is given to the priest at ordination.

The equality of the power to transubstantiate bread and wine into the body and blood of Christ is the cause of the equality of all priests.¹²² Sacramentally priests are equal, and God is the cause of that equality; human beings are the cause of the inequality of priests for entirely contingent and practical reasons of organization. Marsilius emphasizes the divine origin of the priestly character and its equality in his account of ordination.¹²³ There is no human agency or mediation in

¹²¹ Marsilius of Padua, *Defensor pacis* II.xv.2: "Et similiter opinandum est in reliquorum ordinum collatione, ex quibus character aliquis imprimitur in animam suscipientis. Hic siquidem character sacerdotalis, sit unus aut plures, potestas est, per quam sacerdos consecrare potest ex pane et vino corpus et sanguinem Christi benedictum cum certa verborum pronunciacione, ac reliqua ecclesiastica sacramenta ministrare; per quem etiam solvere potest et ligare hominos a peccatis." Gewirth's translation has "water" instead of "wine" for "vino."

¹²² See Marsilius of Padua, *Defensor pacis* II.xv.4.

¹²³ Marsilius of Padua, *Defensor pacis* II.xv.10: "Sic igitur ex predictis apparet, a quo tamquam efficiente sit institutio sacerdoti, secundum quod anime significat habitum sive characterem, et aliorum ordinum, quos sacros appellant, quoniam a Deo seu Cristo immediate quamvis previo quasi preparante quodam humano ministerio, ut manuum impositione atque verborum pronunciacione, que ad hoc fortasse nihil efficiunt, sed sic premituntur ex quodam pacto seu ordinatione divina."

the conferral of the priestly character. A human action of laying on hands precedes the imprinting of the priestly character, but that plays no role as an efficient cause. God immediately and equally confers the priestly character: the priest can change the bread and wine into the body and blood of Christ, but he cannot change the human being into a priest. God alone pardons and ordains, though the priest is an efficient cause of transubstantiation.

Grignaschi sees Marsilius moving towards a much more radical position on holy orders. Contrary to tradition, the *Defensor pacis* attributes the efficient cause of the priestly character in ordination to God alone. In addition, Grignaschi thinks that in *Defensor minor* Marsilius denies that ordination confers any priestly character: “Mieux encore, l’expression ‘caracter sacerdotalis’ disparaît du *Defensor Minor* IV qui est le pendant du *Defensor Pacis* II, 15.”¹²⁴ According to Grignaschi, in the *Defensor minor* Marsilius makes no mention of a priestly character because the notion of a priestly authority is sufficient to explain the difference between clergy and laity. In other words, Marsilius reduces the notion of a priestly character to the authority to administer sacraments.¹²⁵ Christ appointed ministers of the sacraments, but he did not confer a priestly character or habit upon them. It follows, then, that the laity has the power but not the authority to administer the sacraments.¹²⁶

The letter of the text requires Marsilius to maintain a divinely appointed authority to administer the sacraments, but nothing in the letter requires a priestly character or habit. So, for Grignaschi, the *Defensor pacis* is marginally Catholic, but the silent elimination of an “ordo sacerdotalis” in the *Defensor minor* places Marsilius beyond the margins.

An evaluation of Grignaschi’s thesis requires consideration of the sacrament of the Eucharist. If the priest is a cause of transubstantiation,

¹²⁴ Grignaschi, *Une Polemique du Moyen Age*, p. 85.

¹²⁵ See Grignaschi, *Une Polemique du Moyen Age*, p. 88.

¹²⁶ Grignaschi, *Une Polemique du Moyen Age*, pp. 90–91: “Encore, rapport au problème du sacerdoce universel, rien dans la logique du *Defensor Minor* n’exclut la capacité des laïcs de conférer les sacrements hormis le fait que Jésus a confié la distribution des sacrements à l’‘officium’ de l’‘episcopus’ seu ‘presbyter.’ Or, l’existence d’un tel ‘officium’ était réellement attestée par les Ecritures et elle s’imposa même à Luther qui lui, à partir de 1530, abandonna la ‘Uebertragungs theorie’ et restitua énergiquement aux ‘ministri evangelii’ le droit exclusif de prêcher et d’administrer les sacrements. La nouvelle Eglise du *Defensor Minor*—nous sommes désormais à même de l’affirmer avec certitude—était déjà une Eglise protestante.”

can Marsilius' abandon an "ordo sacerdotalis"? Marsilius says little about the sacraments apart from penance and holy orders. He says that baptism, as prescribed by the new law, is necessary for salvation, but he does not elaborate the nature of the sacrament.¹²⁷ Nothing at all is said about confirmation or the anointing of the sick. Marriage is very briefly discussed as a legal matter in the *Defensor pacis*, and at more length in the *Defensor minor*, but the theme is the same: as a matter of law in this world with coercive force, marriage falls under the purview of the human legislator.¹²⁸ Marsilius refers to the sacrament of the Eucharist on several occasions.¹²⁹ Each time he says little about it, but what he does say has profound implications for his account of the sacraments and, more generally, for his view of the Church as spiritual.

Sacrament of the Eucharist

Marsilius takes Christ's words of institution at the last supper literally: the bread and wine become the body and blood of Christ. The notion of transubstantiation is mentioned in almost every reference to the Eucharist.¹³⁰ Torraco accounts for the difference in the way that Marsilius treats the Eucharist, penance, and ordination through the political neutrality of transubstantiation:

Transubstantiation is an example of a neutral act. In Marsilius' view, this priestly act is not a contentious act that threatens the civil peace. (II.xxx.4) Therefore he does not bother to question the instrumental causality allegedly involved in the act of consecration as he does in the case of the laying on of hands, which, we have noted before, is a direct civil act.¹³¹

¹²⁷ See Marsilius of Padua, *Defensor pacis* II.vi.2, II.xvii.12, II.xvii.15.

¹²⁸ Compare Marsilius of Padua, *Defensor pacis* II.xxi.8, III.ii.19 with *Defensor minor* XV–XVI. Marsilius of Padua, *Defensor minor* XVI.4 in Marsilius of Padua, *Oeuvres mineures: Defensor minor. De translatione Imperii*, ed. Collette Jeudy and Jeannine Quillet (Paris, 1979): "Ex his igitur omnibus iam praedictis manifeste apparet cuilibet non corrupto ignorantia, malitia vel utrisque, auctoritatem dispensandi atque tollendi a matrimonio impedimentum inter personas et a personis sanguinis affinate coniunctis, ad auctoritatem solius legislatoris humani vero ad presbyterum sive episcopum quemquam, etiam Romanum papam vocatum, communiter aut divisim..."

¹²⁹ See Marsilius of Padua, *Defensor pacis* I.xix.5, II.vi.14, II.xv.2, II.xv.4, II.xvi.2.

¹³⁰ See Marsilius of Padua, *Defensor pacis* I.xix.5, II.vi.14, II.xv.2, II.xv.4.

¹³¹ Torraco, *Priests as Physicians of Souls*, pp. 209–10.

Marsilius minimizes to the extreme or eliminates altogether priestly mediation in the politically significant sacraments of penance and holy orders, but he can allow priestly mediation in the politically insignificant sacrament of the Eucharist. The problem with this interpretation is that if the Eucharist is the body and blood of Christ, it is difficult to see how it does not deify the recipient. We have already seen that transubstantiation commits Marsilius to the position that there must be some Christ-like character or habit in the priest: the priest must be, in effect, divinized if he transubstantiates the bread and wine. Marsilius says nothing about the recipient of the sacrament, but the purpose of the sacrament is obviously deification. Penance as the restoration of merit is consistent with Marsilius' futurized understanding of grace; the Eucharist, however, as the ingestion of a divinized food and drink has its effect in the present. The Eucharist, if it is the substance of the divinity, is a taste in this world of the future heavenly banquet. It is spiritual food that enables the recipient to follow the commands of Christ. In other words, the Eucharist is grace that aids the recipient in obeying the new law. It follows that grace in the sacrament of the Eucharist, an internal power to live the new law, is not merely futurized merit but the foundation of spiritual law in this world.

Lagarde notes that Marsilius retains the traditional understanding of the Eucharist while decentralizing the sacrament.¹³² The problem is that the traditional understanding of grace in the Eucharist has great political significance, for it is the principal example of grace as deifying and hence of the new law as law in this world. Lagarde concludes that, for Marsilius, the Church is not a sacramental community, i.e., a community united by the sacraments and especially by the sacrament of the Eucharist.¹³³ Gewirth, in contrast, allows that Marsilius' Church is sacramental.¹³⁴ In a sense, both views are correct. Marsilius does maintain a sacramental priesthood, at least in the *Defensor pacis*, but the sacraments are seen as legal prescriptions that, when obeyed, cause one to merit reward in the world to come. The traditional understand-

¹³² Lagarde, *Le Defensor pacis*, pp. 204–05: “De même, à la différence de la plupart des théologiens qui l’ont précédé, il ne fait pas de l’Eucharistie le sacrement majeur, mystère premier, source de tous les autres, ciment de la communauté chrétienne.”

¹³³ Lagarde, *Le Defensor pacis*, p. 218: “Des sacrements qu’il a conservés, il n’a pas déduit une communauté sacramentelle.”

¹³⁴ Gewirth, *Marsilius of Padua and Medieval Political Philosophy*, p. 279: “The essential, intrinsic church, as Marsilius conceives it, remains a purely spiritual, sacramental community.”

ing of the Eucharist that Marsilius continues, however, is less easily fit into such a paradigm.

The apparent contradiction between Marsilius' traditional understanding of the Eucharist as the literal body and blood of Christ and his denial of grace as a deifying power leaves us with the question of whether Marsilius was aware of the problem. Grignaschi, in effect, sees Marsilius as aware of the difficulty and as moving towards a resolution, since the *Defensor minor* is said to eliminate the *ordo sacerdotalis*. Nevertheless, even if Marsilius does eliminate the priestly character necessary for transubstantiation, he wages no war against transubstantiation itself.¹³⁵ Why does Marsilius want to retain the traditional understanding of the Eucharist while ignoring its impact on grace? The most obvious reason for retaining the traditional understanding of the Eucharist is that a literal reading of the New Testament requires it. Marsilius does not allegorize the New Testament, and so he cannot allegorize the words of institution at the last supper. There is, at the same time, no such literal basis for a priestly character. If, as Grignaschi argues, Marsilius begins the Reformation with his implicit denial of a priestly character in the *Defensor minor*, even more radically would he break with the Catholic Church in a denial of the Eucharist as the body and blood of Christ.

At length, then, we have arrived at clear instance of a kind of Averroism in Marsilius' account of the Church as spiritual. A literal reading of Scripture necessitates the traditional understanding of the Eucharist, but that is contrary to his futurized understanding of grace and the new law. Marsilius' position is Averroistic in the sense of holding two conflicting truths, one necessitated by a literal reading of Scripture and the other necessitated by reason. Faith and theology require that the Eucharist is grace in the sense of an aid to obeying the new law. Eucharistic grace makes the new law to be law in this world because it replaces the coercive force of an external judgment (whether in the present or future) as the motivation for obedience with a power that is more effective and internal. The deification of the recipient of the Eucharist shows that the law of grace is not only law in this world but is superior to both the old law and human law. Reason and philosophy, on the other hand, demonstrate that there is only one law in this world and that it is human law. There is no peace in the city if

¹³⁵ See Marsilius of Padua, *Defensor minor* IV.1.

there are two laws at one time, just as there is no peace for the human mind if there are two conflicting opinions at the same time. Divine law is powerless in this world, and it will become law only when God judges at the end of this world. Although Scripture and philosophy do not agree about the law of grace with respect to the Eucharist, Marsilius' position is not Averroism in the strict sense, because he does not allegorize the literal meaning of Scripture. Averroes' philosopher is free to interpret the sacred text allegorically when it conflicts with philosophy, but Marsilius repeatedly asserts that the sacrament of the Eucharist is literally the body and blood of Christ. Marsilius is unwilling to abandon either horn of the dilemma and offers no resolution other than decentralizing the sacrament of the Eucharist and ignoring its impact on grace and law.

V. CONCLUSION

We have seen that the main divergence among commentators on Marsilius' account of the Church as spiritual concerns its sincerity. One group maintains that the spiritual and theological element in the *Defensor pacis* cannot be reduced to philosophy: Marsilius' theology genuinely begins with Scripture and the general councils. Marsilius is both *homo Aristotelicus* and *Christianus*. A test for this interpretation is whether it is possible to read Discourse II before Discourse I, that is, whether his reading of Scripture is intelligible apart from his philosophy. The other group (principally, Gewirth) argues that Marsilius' spiritual theology is not sincere because he reads Scripture through a philosophical lens and edits it to fit his philosophy. Thus, Marsilius' reading of Scripture is not intelligible apart from his philosophical definition of law in Discourse I. No single answer to this debate can be given, because the response depends upon which part of Marsilius' account of the Church is in question. Most of Marsilius' account of the Church as spiritual does appear sincere: it is consistently theological. The two problems are whether Marsilius' doctrine of grace is compatible with the Pauline letters and, more importantly, the conflict between his positions on law and the sacrament of the Eucharist.

The most tempting overall solution to Marsilius' problem with the Eucharist is to see his writing in this area as esoteric. In other words, Marsilius' philosophy of law should require him to deny transubstantiation, but he cannot prudently do so. The intelligent reader would

understand that Marsilius is forced by political necessity to assert transubstantiation, and thus the Eucharist, as deifying grace. One could cite in support of this that Marsilius has already removed significant priestly mediation in the sacraments of penance and holy orders, and one could point to Grignaschi's claim that Marsilius rejects the priestly character in the *Defensor minor*. Nevertheless, it is not clear that it was only Marsilius' audience that was incapable conceiving the Eucharist without transubstantiation. The fact is that by conviction, habit, or political prudence, Marsilius repeatedly asserts that the Eucharist entails transubstantiation.¹³⁶ What we can be certain about is the difficulty of Christianity for political philosophy. Aristotle and Greek philosophy could not foresee the problems that the Incarnation would bring for political life. As Marsilius seeks to provide a *political summa* that will treat these problems, the most difficult aspect of the Incarnation for him to incorporate is the sacrament of the Eucharist.

¹³⁶ Segall, *Der Defensor Pacis des Marsilius von Padua*, p. 77: "Weder in dem einen noch in dem anderen Falle kann ernsthaft bezweifelt werden, daß er an zahlreichen Stellen des *Defensor Pacis* ein deutliches Bekenntnis zu 'katolischen' Glauben ablegt."

CHAPTER SEVEN

MARSILIUS AND THE POVERTY CONTROVERSY IN DICTIO II

Roberto Lambertini

The *Defensor pacis* was finished in June 1324, at a time when religious poverty played a very important role in the controversies about the nature of the Church and its function in the Christian society. This notwithstanding, students of the *Defensor pacis* have been obviously more attracted by its highly original theories of secular law and government than by the chapters of Dictio II that tackle the thorny issue of the poverty of the Apostles. Understandable as it may be, this attitude has been slowly changing over the years, as Cary Nederman rightly points out.¹ Recently, scholars have improved their knowledge of these sections and have interpreted them in various ways and from different points of view.

The present chapter has therefore a twofold purpose. First, I shall survey the contributions of scholars who, although in different ways, contributed to this change during the last 60 years. Given the size of the bibliography on Marsilius,² this survey cannot, of course, be exhaustive by discussing every single work relevant for this development; it will only highlight some contributions that can be regarded as particularly influential. In its second part, this chapter provides an outline of the structure of the relevant sections of the second discourse and a summary of their contents. In the course of the chapter, I point to relationships to other relevant texts in the belief that such comparisons can shed more light on the peculiarity of Marsilius' position. As a matter of fact, the problem of the poverty of Christ and the Apostles is discussed in detail in Chapters XII, XIII and XIV of Dictio II. The preceding chapter, XI, has more an introductory function; since, however,

¹ Cary J. Nederman, "Marsiglio of Padua Studies Today—and Tomorrow," in *The World of Marsilius of Padua*, ed. Gerson Moreno-Riaño (Turnhout, 2006), pp. 11–28, here p. 20.

² See, for example, Carlo Dolcini, *Introduzione a Marsilio da Padova* (Rome, 1995), pp. 88–112, which covers only what was published after 1960.

many scholars regard chapters XI to XIV as a whole, in the following, for brevity's sake, I will refer to all of them with the expression "poverty chapters."³

STUDIES ON THE "POVERTY CHAPTERS" BEFORE 1980

In his ground-breaking work *Marsilius of Padua and Medieval Political Philosophy*, Alan Gewirth showed little interest in the poverty chapters of the second discourse, seeing a contradiction between what he called Marsilius' secularism and the negation of all secular values that is implied in chapters that seem to him influenced by heretical sects such as Cathars and Waldensians.⁴ Some of Gewirth's later critics reproached him for disregarding intentionally the sections of the *Defensor pacis* that did not fit into the image of Marsilius he constructed.⁵ More attention to the poverty chapters was devoted, in the following years, by scholars who inclined towards a religious (as opposed to a secular) reading of Marsilius' work. This happens in a rather naive and hazy way in an author such as Hermann Segall, who lists among Marsilius' models (*Vorbilder*) the "Spiritual Franciscans," whom he rather confusingly identifies not only with Olivi but also with the group led by Michael of Cesena.⁶ In the following decade, Gordon Leff asserted with stronger, although not altogether convincing, arguments that the apostolic ideal was the foundation of Marsilius' attack upon the existing ecclesiastic institutions. The polemical target of Leff's article was actually the tendency to trace back positions in political thought to basic assumptions in ontology and metaphysics. In particular, he was reacting to Michael Wilks' *The Problem of Sovereignty in the Later Middle Ages*⁷ and, in general, to Walter Ullmann's

³ In the footnotes, I will refer to the *Defensor pacis* according to Richard Scholz's edition *Defensor Pacis*, Monumenta Germaniae Historiae, Fontes iuris germanici antiqui in usum scholarum separatim editi, 7 (Hanover, 1932); for the translation into English, I rely on Annabel Brett's recent version: Marsilius of Padua, *The Defender of the Peace* (Cambridge, 2005).

⁴ Alan Gewirth, *Marsilius of Padua and Medieval Political Philosophy* (New York, 1951), pp. 80–81, 295.

⁵ Marino Damiani, "Funzione e concetto della povertà evangelica in Marsilio da Padova," *Medioevo* 6 (1980), 411–30, at pp. 411–12.

⁶ Hermann Segall, *Der "Defensor Pacis" des Marsilius von Padua: Grundfragen der Interpretation* (Wiesbaden, 1959), pp. 37–42.

⁷ Michael Wilks, *The Problem of Sovereignty in the Later Middle Ages: The Papal Monarchy with Augustinus Triumphus and the Publicists* (Cambridge, 1963).

approach to the history of medieval political thought. In opposition to an interpretation that, in his opinion, exaggerated the influence of philosophy on political thought and remained therefore too abstract, Leff suggested that an—in my opinion almost equally abstract—“ideal of the apostolic church” united many medieval critics of ecclesiastical structures, from John of Paris to Jan Hus, including Marsilius, too.⁸ In this way, however, Leff assimilates Marsilius’ texts to those of Church reformers inspired by extremely disparate principles.

As one can easily see, up to this point, discussion among scholars remained at a general level and the connection to the actual text of the poverty chapters was still very loose.⁹ A different approach emerged in Carlo Pincin’s monograph, published in the same year as Leff’s article. Although the main emphasis of his book concerns different issues, Pincin provides a lucid outline of Marsilius’ argumentation in Dictio II, aimed at denying, on a scriptural basis, the legitimacy of ecclesiastical temporal powers. Pincin was convinced that the ultimate foundation of Marsilius’ thought was not religious; this persuasion did not prevent him from grasping the significance of the poverty issue that is essential to Marsilius’ claims about religious poverty in the logical “economy” of Dictio II.¹⁰

In 1970 two monographs appeared that both devoted a substantial and autonomous section to the poverty chapters of Dictio II and exerted a lasting influence on Marsilian scholarship. Building on her experience as translator of the *Defensor pacis* into French, Jeannine Quillet published *La philosophie politique de Marsile de Padoue*,¹¹ whose seventeenth chapter is completely devoted to the poverty issue. The title of the chapter, “La doctrine marsilienne de la pauvreté méritoire,” connects Marsilius’ discussions to the controversies concerning the status of the Mendicant Orders and, in particular, the poverty professed by the Order of the Friars Minor. Coherently, Quillet opens her chapter with a historical excursus on the poverty controversy, starting from the first debates in the Franciscan Order.¹² This reconstruction, albeit sometimes inaccurate (e.g., when she identifies Michael

⁸ Gordon Leff, “The Apostolic Ideal in Later Medieval Ecclesiology,” *The Journal of Theological Studies* 18 (1967), 58–82.

⁹ It would be interesting to check how often authors such as Segall or Leff referred to precise passages taken from the “poverty chapters.”

¹⁰ Carlo Pincin, *Marsilio* (Turin, 1967), pp. 95–98.

¹¹ Jeannine Quillet, *La philosophie politique de Marsile de Padoue* (Paris, 1970).

¹² Quillet, *La philosophie politique de Marsile de Padoue*, pp. 203–14.

of Cesena with the Spiritual Franciscans, who were, on the contrary, in conflict with one another),¹³ allows her to sketch the immediate context of Marsilius' poverty chapters. Although the Paduan does not mention any name, the relevant section of Dictio II can be seen as his intervention in the debate on the poverty of Christ and of the Apostles opened by Pope John XXII with his Bull *Quia nonnumquam* in 1322, which the pope had believed to have closed with his definition *Cum inter nonnullos* (November 1323) but which, on the contrary, continued largely unabated. After a detailed exposition of the content of the three poverty chapters,¹⁴ Quillet remarks that, on the issue of the separability of use and *dominium* in consumable goods and on the nature of the poverty of Christ and the Apostles, Marsilius sides with Michael of Cesena and his followers, without mentioning them.¹⁵ On the one hand, Quillet recognizes that Marsilius' treatment of the poverty issue in the *Defensor pacis* follows its own inner logic and is aimed at undermining the doctrine of papal plenitude of power. On the other hand, underlining that, although with different goals, Marsilius shares Michael of Cesena's position on the poverty of Christ, she claims that the Paduan thinker is part of a larger "movement" of opposition against the temporal power of the Church.¹⁶

As noted above, Georges de Lagarde in the same year published his *Le Defensor pacis*, as volume 3 of *La naissance de l'esprit laïque au déclin du moyen âge* in its new edition. This volume represents a completely revised version of *Marsile de Padoue ou le premier théoricien de l'état laïque*, which had appeared for the first time in 1934 as volume two of *La naissance*, and was released in a second edition in 1948.¹⁷ The author judges that his revision has gone so deep, in this case,

¹³ Quillet, *La philosophie politique de Marsile de Padoue*, p. 206.

¹⁴ Quillet, *La philosophie politique de Marsile de Padoue*, pp. 215–26.

¹⁵ Quillet, *La philosophie politique de Marsile de Padoue*, p. 221.

¹⁶ Quillet, *La philosophie politique de Marsile de Padoue*, p. 214.

¹⁷ The publication of Lagarde's work has a long history of its own. I recall only the essential data: Georges de Lagarde, *La naissance de l'esprit laïque au déclin du moyen âge*, 1st ed.: vol. 1: *Bilan du XIII^{ème} siècle* (Paris, 1934); vol. 2: *Marsile de Padoue, ou, le premier théoricien de l'état laïque* (Paris, 1934); vol. 3: *Secteur social de la scolastique* (Paris, 1942); vol. 4: *Ockham et son temps* (Paris, 1943); vol. 5: *Ockham: Bases de départ* (Paris, 1946); vol. 6: *Ockham: la morale et le droit* (Paris, 1946), and the 2nd, completely revised edition: vol. 1: *Bilan du XIII^{ème} siècle* (Louvain-Paris, 1956); vol. 2: *Secteur sociale de la Scolastique* (Louvain-Paris, 1958); vol. 3: *Le Defensor pacis* (Louvain-Paris, 1970); vol. 4: *Guillaume d'Ockham: Défense de l'empire* (Louvain-Paris, 1962); vol. 5: *Guillaume d'Ockham: critique des structures ecclésiastiques* (Louvain-Paris, 1963).

that it seemed preferable to chose a new title. For the chapters that concern our study, there are indeed some important changes. In the 1934 edition, the reference to the poverty issue was confined to few pages in a chapter devoted to the influence of religious groups on Marsilius, and the actual text of the *Defensor* was quoted very little.¹⁸ In the 1970 edition, the first part of a chapter more cautiously entitled “Marsile et les aspirations religieuses de son époque” treats *ex professo* the poverty chapters, making more extensive reference to the text.¹⁹ This renewed attention does not imply, however, that Lagarde changed his basic attitude towards this aspect of Marsilius’ work: he is mainly interested in comparing his ideas with other currents of thought and spirituality. Interestingly enough, however, Lagarde emphasizes not so much affinities but, rather, dissimilarities, with regard to other positions in the poverty controversy, focusing in particular on Franciscans. To this purpose he distinguishes among the “Community” (the majority of the Order that is still erroneously called “conventuals,” which is anachronistic for the first decades of the fourteenth century),²⁰ the followers of Michael of Cesena, and the Franciscan Spirituals. Besides the fact that Lagarde’s first distinction seems a little artificial, since Michael was the Minister General and the leader of the “Community” until his rebellion against the pope, four years after the *Defensor pacis* was finished, the remarks of the French historian of ideas reveal a noteworthy sensitivity to doctrinal distinctions. He points out that the attitude of Franciscan Spirituals such as Ubertino of Casale, with their eschatological inspiration and their emphasis on the substantial, even material, aspects of Franciscan poverty, is totally alien to Marsilius.²¹ From this point of view, the Paduan can be considered closer to the “Community,” which supported a formal, juridical definition of Franciscan poverty,²² than to the “Spirituals.” According to Lagarde, this resemblance should not prevent us from recognizing that Marsilius, while upholding the same conclusions as the Franciscan defending the doctrine of the absolute poverty of Christ and the Apostles, adopts a different argumentative strategy. Moreover, the Franciscans belonging

¹⁸ Lagarde, *Marsile de Padoue*, pp. 121–25, 137, 280–83.

¹⁹ Lagarde, *Le Defensor pacis*, pp. 329–40.

²⁰ For an updated history of the Order of the Friars Minor, see Guido G. Merlo, *Nel nome di San Francesco* (Padua, 2003); the book is currently being translated into English for the Franciscan Institute Publications (St Bonaventure, NY).

²¹ Lagarde, *Le Defensor pacis*, p. 339.

²² Lagarde, *Le Defensor pacis*, p. 340.

to the "Community" never connect their position about Christ's perfect poverty to an attack upon the legitimacy of ecclesiastical possession; this is, on the contrary, precisely Marsilius' goal in these chapters. In sum, despite many similarities with Franciscan authors involved in the same debate in the same years, Marsilius follows his own agenda. If there has been any influence in the relationship between Marsilius and the Franciscans, it was exerted later by the *Defensor pacis* on Michael of Cesena's followers, not the reverse. According to Lagarde, the authentic foundation of his doctrine of poverty should be sought not in any of the Franciscan currents, but rather in the Waldensians, although there is no evidence that Marsilius had contacts with this group or its writings.²³ Some critics have linked this rather astonishing conclusion with Lagarde's concern for preserving the Franciscan tradition from the taint of heresy.²⁴ Probably, it can be seen also as an example of the peculiar mixture of excellent scholarship, familiarity with printed and unprinted sources, and impressionistic, arbitrary historical judgments that characterizes Lagarde's imposing, life-long work about the origins of the "esprit laïque."²⁵

Summarizing the results of his doctoral dissertation in an article published in 1977, Kerry Spiers made a substantial contribution to the understanding of the poverty chapters of the *Defensor pacis*, starting from the contention that they should be inserted in a more definite context than was done before.²⁶ This approach allowed Spiers to examine technical terms and arguments that had been developed by the Franciscans since the time of the controversy between Seculars and Mendicants in the second half of the thirteenth century. In this way, he traced back some features of Marsilius' argumentation to Bonaventure, to Peckham and to the papal bull *Exiit qui seminat*, which provided papal approbation and support to the line of thought initiated by Bonaventure. Although Spiers did not identify literal

²³ Lagarde, *Le Defensor pacis*, pp. 344–57.

²⁴ See, e.g., Marino Damiata, "Funzione," p. 412.

²⁵ I follow here Carlo Dolcini's opinion: "Prolegomeni alla storiografia del pensiero politico medioevale," in *Il pensiero politico del Basso Medioevo*, ed. Carlo Dolcini (Bologna, 1983), pp. 9–117; about Lagarde pp. 63–65. This essay is reprinted in Carlo Dolcini, *Crisi di poteri e politologia in crisi: Da Sinibaldo Fieschi a Guglielmo d'Ockham* (Bologna, 1988).

²⁶ Kerry E. Spiers, "The Ecclesiastical Poverty Theory of Marsilius of Padua: Sources and Significance," *Il pensiero politico* 10 (1977), 3–21. The dissertation had been written under the direction of Charles T. Davis.

dependence of the *Defensor pacis* on a specific apologetic Franciscan text, his case for an acquaintance of the Paduan with this tradition is persuasive.²⁷ Exploring edited and unedited tracts originating from the papal inquiry of the years 1322–23, Spiers was also able to point to other, non-Franciscan sources, where Marsilius could have found the anti-Franciscan arguments he reported in order to reject them. In particular, the resemblance between an argument put forward by the Dominican Hervaeus Natalis in his *Dicta* about Apostolic Poverty and a *ratio in contrarium* discussed by Marsilius is striking.²⁸ Although the similarity is not as strong as in the first case, and relies on a passage considered by Previté-Orton and Scholz to be a later addition, Spiers argues that Marsilius could be referring also to the so-called opinion of the Paris *studium*,²⁹ submitted to the Curia in the context of the papal inquiry on poverty.

According to the results of Spiers' investigation, Marsilius' stance on the issue of poverty appears deeply influenced by the Franciscan tradition and engaged in defending some main tenets against recent criticism on the part of their adversaries. This does not imply, however, that Marsilius follows slavishly the Franciscan tradition: on the contrary, he not only shows a selective attitude towards the arguments in favor of Franciscan poverty, rejecting or ignoring some of them, but further, according to Spiers, does not share the basic ideas of the Franciscans.³⁰ The third and last claim contained in this important article is that Marsilius had no "community of interest" with the Franciscans but was, rather, a "traditionalist" who pleaded for the subjection of the Church to the lay power, as it was the case in late antiquity.³¹

This third claim stimulated the lively polemical reaction of Conal Condren, who in the following year harshly attacked Spiers' interpretation, speaking of the "Poverty of Traditionalism."³² Condren's criticism focused on the historiographical categories used rather than on historical evidence. "Traditionalist" seemed to him completely

²⁷ Spiers, "The Ecclesiastical," pp. 7–11. The connection drawn to William of Saint-Amour's "reliance on sacred scripture" (p. 7) seems to me, on the contrary, not sufficiently substantiated.

²⁸ Spiers, "The Ecclesiastical," pp. 12–13.

²⁹ Spiers, "The Ecclesiastical," pp. 13–14.

³⁰ Spiers, "The Ecclesiastical," p. 20.

³¹ Spiers, "The Ecclesiastical," pp. 15–21.

³² Conal Condren, "Marsilius of Padua and the Poverty of Traditionalism," *Il Pensiero Politico* 11 (1972), 393–96.

inappropriate to describe what Spiers himself had shown about Marsilius and his way of handling different sources.³³ Condren's strident attack is therefore directed mainly against the "traditionalism" of Spiers' approach to the history of political thought.³⁴ In his reply, Spiers insisted on the possibility of defining Marsilius as being at the same time "traditional" and an "innovator," a paradox that did not derive, according to Spiers, from the categories he applied, but rather from the source itself.³⁵

PADUA AND AFTER

The Padua congress of 1980, where both Spiers and Condren presented papers, was not the occasion for a substantial continuation of their debate, at least in the printed versions published in the journal *Medioevo*. Spiers devoted closer scrutiny to one possible source of Marsilius' views, the opinion of the Paris *studium*.³⁶ More cautiously than in 1977,³⁷ he argued that this text could have been the source for the argument against Christ's poverty based on the universal dominion Jesus would have received as a man at the moment of his incarnation. This argument is adopted with a striking similarity even in its literal formulation in John XXII's *Quia vir reprobis* (1329).³⁸ It is also referred to and rejected in a marginal addition to the *Defensor pacis* that is present in the Tortosa manuscript, a copy that stands at the beginning of the German tradition and, according to both critical editors, contains Marsilius' own corrections or additions to the text. This evidence led Spiers to conclude that there is no need to date Marsilius' notation in the text to a time after *Quia vir reprobis*, since he could as well have found the argument in the opinion of the Paris *studium*, which can be dated to 1323.³⁹ In Padua, Spiers preferred therefore

³³ Condren, "Marsilius," p. 396: "If the New Testament was a traditional source, the influence of which helps make Marsilius a traditionalist, who was not a traditionalist?"

³⁴ Condren, "Marsilius," pp. 394–95.

³⁵ Kerry E. Spiers, "In Reply to Professor Condren," *Il Pensiero Politico* 11 (1978), 397–98.

³⁶ Kerry E. Spiers, "Pope John XXII and Marsilius of Padua on the Universal Dominion of Christ: A Possible Common Source," *Medioevo* 6 (1980), 471–78.

³⁷ Spiers, "The Ecclesiastical," pp. 14–15, note 56 simply rejected the view of the modern editors.

³⁸ Spiers, "Pope John XXII," p. 474.

³⁹ Spiers, "Pope John XXII," pp. 477–78.

to focus on sources than on historiographical debates, while Conal Condren opted for a paper about an aspect of Marsilius' reception in seventeenth-century England.⁴⁰

Other participants in the Padua congress devoted their attention to the poverty chapters. Among them, Marino Damiata contributed a paper, entitled "Funzione e concetto della povertà evangelica in Marsilio da Padova,"⁴¹ which contains a detailed summary of Chapter XIII of Dictio II. Damiata was persuaded that the use of Franciscan arguments in favor of the absolute poverty of Christ is based on Marsilius' ecclesio-political agenda, aimed at excluding the clergy from any kind of worldly power, be it political or economic. This does not rule out, however, that Marsilius also shared a sincere sense of Christian perfection. According to Damiata, in the poverty chapters one finds a fundamental Franciscan inspiration,⁴² although there are also divergences. The most evident, as almost all interpreters had already remarked, is that Marsilius sees in absolute poverty a condition to reach perfection for all the clergy, and not only for an Order identified by a specific religious vow.⁴³

In his contribution, Gian Luca Potestà set out to compare Marsilius and Ubertino of Casale, one of the leaders of the Spiritual Franciscans, whose name had been often invoked as a possible source of inspiration by translators of the *Defensor pacis*, such as Gewirth and Cesare Vasoli, with regard to the "poverty chapters."⁴⁴ Potestà singles out three issues about which comparison is possible and underlines dramatic divergences in matters of ecclesiology and eschatology between Marsilius and Ubertino. This is not our immediate concern; on the contrary, it is relevant that Potestà, comparing the two authors on the issue of ecclesiastical poverty, shows that they concur in contrasting the poverty of Christ with the wealth of the Church and of the religious Orders of their times. Such critical comparisons, however, were widespread at the time. When it comes, however, to the actual doctrine of poverty, Potestà, who had access to Ubertino's unedited text

⁴⁰ Conal Condren, "George Lawson and the *Defensor Pacis*: On the Use of Marsilius in Seventeenth-Century England," *Medioevo* 6 (1980), 595–617.

⁴¹ Damiata, "Funzione," pp. 411–30.

⁴² Damiata, "Funzione," p. 429.

⁴³ Damiata, "Funzione," pp. 427–28.

⁴⁴ Gian Luca Potestà, "Marsilio ed Ubertino da Casale," *Medioevo* 6 (1980), 449–66. See Marsilio da Padova, *Il Difensore della pace*, trans. Cesara Vasoli (Turin, 1960), p. 386, note 17, and p. 408, note 49.

thanks to Charles Davis, who was preparing the edition,⁴⁵ remarks that in his *Reducendo igitur ad brevitatem*, Ubertino denies the separability of use and *dominium*; on this key point of the controversy, Marsilius sides with Bonagratia of Bergamo and other “mainstream” Franciscan authors. Potestà’s results confirmed on a textual basis that, when it comes to the doctrine of poverty, Marsilius is definitely closer to the position of the “Community” than to Ubertino. This was not contradicted, but rather confirmed, by Carlo Dolcini’s contribution, which summarized the results of investigations that he published the following year.⁴⁶ Dolcini gave credence to Albertino Mussato’s testimony that Marsilius and Ubertino had worked together in Rome in drafting the imperial sentence of deposition entitled *Gloriosus deus*. He argued, however, that their collaboration reflected a temporary convergence of different intellectual frameworks that, under other historical circumstances, would have conflicted.⁴⁷

Later, Damiata published an entire monograph about Marsilius, in which the section devoted to the poverty chapters of the *Defensor* reproduced his contribution to the proceedings of the Padua congress.⁴⁸ Also, Conal Condren returned to the issue, but adding something new, a sort of *pars construens*, to his criticism of Spiers’ position. Condren’s “Rhetoric, Historiography and Political Theory: Some Aspects of the Poverty Controversy Reconsidered” is a multi-faceted essay, reflecting John Pocock’s influence in the so-called “linguistic turn” applied to the history of political thought. As far as our problem is concerned, Condren acknowledges that the poverty arguments in the *Defensor pacis*

⁴⁵ Potestà, “Marsilio e Ubertino,” pp. 462–63. Ubertino’s text was the published in Charles T. Davis, “Ubertino da Casale and his Conception of ‘altissima paupertas,’” *Studi medievali* 22 (1981), 7–56.

⁴⁶ Carlo Dolcini, “Marsilio e Ockham (1328–1331): Il diploma imperiale ‘Gloriosus Deus’ per la deposizione di Giovanni XXII e la memoria politica ‘Quoniam scriptura,’” *Medioevo* 6 (1980), 479–89. Dolcini’s study in its entirety was published with the following title: *Marsilio e Ockham: Il diploma imperiale Gloriosus Deus, la memoria politica Quoniam scriptura, il Defensor Minor* (Bologna, 1981). This had a very limited circulation but is printed in *Crisi di poteri*, pp. 291–426, about *Gloriosus Deus*, pp. 309–43.

⁴⁷ Dolcini, *Crisi di poteri*, pp. 332–33. New details concerning those events appear in Alberto Cadili, “Marsilio da Padova amministratore della chiesa ambrosiana,” *Pensiero politico medievale* 3–4 (2005/06), 225.

⁴⁸ Marino Damiata, *Plenitudo Potestatis e universitas civium in Marsilio da Padova* (Florence, 1983), pp. 51–77.

reveal “a strong family resemblance with the Franciscan controversy,”⁴⁹ thus accepting some of Spiers’ results, although with a tendency to underscore possible similarities with Franciscan Spirituals such as Olivi and Ubertino. At the same time, Condren recognizes that Marsilius cannot be considered a Spiritual and was not even involved in the inner controversies concerning the Order. This point is not controversial. The growing scholarly attention to comparisons between Marsilius and other participants in the poverty dispute had shown beyond doubt that the Paduan uses terms and arguments from the Franciscan poverty debates, while, although with different degrees of awareness, almost everybody had noticed that Marsilius differentiated himself from the Friars Minor of all stripes. Condren is unsatisfied, however, with the way scholars have judged the evidence collected so far. In particular, he disagrees with Spiers’ formulation, according to which the Paduan thinker “uses” Franciscan arguments for political purposes, because the issue of Franciscan poverty was already in itself political. Condren’s *pars construens* is complex and cannot be rendered in full in the present survey. Two points, however, deserve to be highlighted. First, he suggests that one should see Marsilius’ treatment of the poverty issue as part of his overall tendency to universalize the questions at issue, so that he never mentions the specific case of the Friars Minor but applies the poverty vocabulary to the whole Church. This could be seen as paralleling his application of Italian political experience to the whole of Christendom. Second, according to Condren, Marsilius tries to shift the debate about poverty from the ambit of ownership to that of political power. Moreover, Condren maintains that the *Defensor pacis* can be understood more appropriately in terms of rhetorical strategies rather than as philosophical discourse: what Marsilius is doing is trying to “adjust an agenda of debate” and “choosing a contingent or only potentially important issue in order to find terms on which the papacy would argue at disadvantage.”⁵⁰

One may nurture doubts about the “disadvantage” of the papacy arguing on Marsilius’ terms, but Condren’s position as a whole shows that, by the beginning of the 1980s, almost all scholars agreed that in the poverty chapters Marsilius employed selectively materials that

⁴⁹ Conal Condren, “Rhetoric, Historiography and Political Theory: Some Aspects of the Poverty Controversy Reconsidered,” *The Journal of Religious History* 13 (1984), 15–34, especially p. 22.

⁵⁰ Condren, “Rhetoric, Historiography and Political Theory,” p. 27.

came from the poverty controversy and that his conclusions overlap—at least partially—with the position held by the leadership of the Franciscan Order during John XXII's inquiry, but that they were inserted in a global argumentative strategy that pursues its own goals. The question of the actual function of the poverty chapters in Marsilius' global argumentative strategy remained open.

This awareness of the peculiarity of Marsilius' position emerges time and again in the following years. Just to mention some examples, in 1989, Jürgen Miethke claimed that it would be absurd to make of the Paduan a Franciscan or even a "cryptofranciscan."⁵¹ In his monograph *Paupertas Christi et Apostolorum*, which analyzes in detail the poverty debate in the years 1322–24, Andrea Tabarroni avoids dealing with Marsilius, because he is persuaded that his language is only derivative of the other participants in the dispute.⁵² In his 1995 introduction to Marsilius, outlining the main structure of the *Defensor pacis*, Dolcini emphasizes that in his treatment of poverty the Paduan evokes figures of ancient Roman history, such as Cato and Scipio.⁵³ When, in the introduction to her translation of the *Defensor pacis*, Annabel Brett writes that Marsilius "appropriates the thesis of apostolic poverty, defended in his day only by the Franciscan Order, but extending it to *all* clergy,"⁵⁴ she echoes the opinion of most scholars of the present day. Gabrielle Gonzales' most recent contribution interprets such "appropriation" as an astute, almost cynical, exploitation for his own ends. Unfortunately, this legitimate opinion is inserted in a presentation whose claims, such as the fact that Marsilius used Olivi, Ubertino, and Angelo Clareno, need to be better corroborated, especially if seen against the background of the scholarly debate on the issue in the last decades.⁵⁵

Besides this historiographical trend, which is mainly concerned with understanding Marsilius' stance in the context of the poverty contro-

⁵¹ Jürgen Miethke, "Marsilius von Padua: Die politische Philosophie eines lateinischen Aristotelikers des 14. Jahrhunderts," in *Lebenslehren und Weltentwürfe im Übergang vom Mittelalter zur Neuzeit*, ed. Hartmut Boockmann, Ludger Grenzmann, Bernd Moeller, and Karl Stackmann (Göttingen, 1989), pp. 52–76, at p. 73.

⁵² Andrea Tabarroni, *Paupertas Christi et Apostolorum: L'ideale francescano in discussione (1322–1324)* (Rome, 1990), pp. 7–8.

⁵³ Dolcini, *Introduzione*, p. 34.

⁵⁴ Marsilius of Padua, *The Defender of the Peace*, p. xxix.

⁵⁵ Gabrielle Gonzales, "The king of the locusts who destroyed the Poverty Of Christ': Pope John XXII, Marsilius of Padua, and the Franciscan Question," in *The World of Marsilius of Padua*, ed. Gerson Moreno-Riaño, pp. 65–88, especially pp. 79–80.

versy, another kind of intellectual interest has attracted some scholars' attention to the "poverty chapters" of the *Defensor pacis*. What matters for such scholars is not what seems to have been paramount to the authors themselves, that is, arguing effectively in favor of a solution of the problem, but, rather, vocabularies and concepts that were developed "indirectly" during the controversy but could have exerted an influence in the wider context of the history of ideas. This happened in the field of the history of economic thought, in Italy, for example, where the connection between the poverty controversy and the language of economic theories has been explored by Giacomo Todeschini,⁵⁶ or in France, thanks to Sylvain Piron's studies on Olivi.⁵⁷ This happened also in the field of the history of juridical ideas. As is well known, when Michel Villey and Paolo Grossi wrote their ground-breaking essays, under the influence of paradigms such as "nominalism" or "voluntarism," they focused almost exclusively on the Franciscan tradition.⁵⁸ In the following years, scholars realized that the semantics of terms such as *proprietas*, *dominium*, or *ius* could not be studied by isolating Franciscan authors from their peers, if for no other reason than because their most interesting texts on the subject originated in a polemical context.⁵⁹ Enlarging the scope of such investigations had the result of moving attention to Marsilius in this respect. In a certain sense, Piero di Vona could be considered a "forerunner" of such developments, since his discussion of *dominium* in the *Defensor pacis*⁶⁰ already presented Marsilius' understanding of the term as voluntarist.⁶¹ Almost a decade later, Janet Coleman suggested connecting inter-mendicant

⁵⁶ Cf. what I think to be one of his best contributions: Giacomo Todeschini *Il prezzo della salvezza: Lessici medievali del pensiero economico* (Rome, 1994). Ovidio Capitani played a pivotal role in this development; see *Una economia politica nel Medioevo*, ed. Ovidio Capitani (Bologna, 1987). Most recently in this historiographical trend, see Giovanni Ceccarelli, "Whatever' Economics: Economic Thought in *Quodlibeta*," in *Theological Quodlibeta in the Middle Ages: The Thirteenth Century*, ed. Christopher Schabel (Leiden, 2006), pp. 475–505.

⁵⁷ E.g., Sylvain Piron, "Perfection évangélique et moralité civile: Pierre de Jean Olivi et l'éthique économique franciscaine," in *Ideologia del credito tra Tre e Quattrocento: dall'Asteseano ad Angelo da Chivasso*, ed. Barbara Molina and Giulia Scarcia (Asti, 2001), pp. 103–43.

⁵⁸ For a recent, interesting attempt at renewing this approach, with reference to previous studies, see Luca Parisoli, *Francescanesimo e diritto soggettivo* (Rome, 1999).

⁵⁹ Virpi Mäkinen, *Property Rights in the Late Medieval Discussion on Franciscan Poverty* (Leuven, 2001).

⁶⁰ Piero di Vona, *I principi del Defensor Pacis* (Naples, 1974), pp. 148–87.

⁶¹ Piero di Vona, *I principi del Defensor Pacis*, pp. 154–63.

controversies (mainly between Franciscans and Dominicans) with the development of different views of *dominium*.⁶² Building also on Coleman's remarks, Cary Nederman makes a very interesting comparison between the meaning of *dominus* in the first discourse, where it is used to define the status of the *paterfamilias* with regard to his family, his servants and his house, and the different meanings of *dominium* in Dictio II. According to him, in order to support the Franciscan position, Marsilius shifts to a "somewhat idiosyncratic definition" of *dominium*, which does not coincide with the one implied in Dictio I.⁶³

Brian Tierney has provided a thorough analysis of the "poverty chapters" as a relevant source for the history of the idea of subjective rights.⁶⁴ In Marsilius' analysis of the different meanings of *ius*, Tierney recognizes an explicit awareness of the distinction between objective right and subjective right not found in previous authors. Marsilius distinguishes sharply between *ius* as meaning *lex* (the objective aspect) and meaning a licit power according to the law (the subjective aspect).⁶⁵ Moreover, Tierney claims that Marsilius puts forward in these chapters the idea of a permissive law that "defines an area of free choice, where the individual could licitly follow his own will." This move is essential to support a view according to which law defines licit ways of acquiring ownership but also leaves the space open to renounce it. Although Conrad Summenhart ascribes to Jean Gerson the distinction between objective and subjective *ius*, Tierney thinks that it should rather be traced back to the Paduan thinker, as Gerson's writings do not contain anything similar.⁶⁶ In a recent volume edited by Virpi Mäkinen and Petter Korkman, Annabel Brett remarks that Marsilius, his awareness

⁶² Janet Coleman, "Ratio and *dominium* according to John of Paris and Marsilius of Padua," in *Preuve et raisons à l'Université de Paris: Logique, ontologie et théologie au XIV^e siècle*, ed. Zénon Kaluza and Paul Vignaux (Paris, 1984), pp. 65–81, especially pp. 77–78, and "Property and Poverty," in *The Cambridge History of Medieval Political Thought (c. 350–c. 1450)*, ed. James H. Burns (Cambridge, 1988), pp. 607–52, especially pp. 643–44.

⁶³ Cary Nederman, *Community and Consent: The Secular Political Theory of Marsilio of Padua's Defensor Pacis* (Lanham, MD, 1995), pp. 35–37. It is a pity, albeit not of great moment, that both Coleman and Nederman still speak of Spiritual Franciscans, meaning Michael of Cesena and his followers, in this context.

⁶⁴ Brian Tierney, *The Idea of Natural Rights: Studies on Natural Rights, Natural Law and Church Law 1150–1625* (Atlanta, 1997), pp. 104–18. This chapter was originally published as "Marsilius on Rights," *Journal of the History of Ideas* 52 (1991), 3–17; I refer, however, to the later version.

⁶⁵ Tierney, *The Idea*, pp. 111–12.

⁶⁶ Tierney, *The Idea*, p. 109.

of a distinction between subjective and objective *ius* notwithstanding, diverges from theories of natural subjective rights because he grounds rights exclusively on positive law, and thus he denies that *ius naturale* can be considered a law in the proper sense of the term.⁶⁷

THE "POVERTY CHAPTERS": AN OUTLINE

After reviewing the scholarship up to the most recent times, it may be helpful to sketch the structure of the poverty chapters in order to better locate Marsilius' arguments and claims in their immediate context. Chapter XI collects "signs, testimonies, and examples from the canonical scripture and from human writings" that corroborate what Marsilius had maintained in Chapter IV of Dictio II (that is, that the clergy should not possess coercive jurisdiction) and what he said in Chapter V (dealing with the parts of the city, and therefore with the function of the priestly part) and in Chapters VIII to X (discussing respectively the different types of regimes, the methods of instituting monarchy and other regimes, and the meaning of the term "law") of Dictio I.⁶⁸ Although the connection with the latter three chapters seems to be a rather loose one, the relevance of the former ones is evident, since in Chapter XI of Dictio II, Marsilius aims to show that the status of the clergy should be "separate from the status of those who exercise government." In particular, priests should live in poverty and humility, following Christ's example, a status that is not fitting for a sovereign, whose office consists in exerting a coercive power. There is no need to describe in detail the contents of a chapter that contains traditional reference to Christ's poverty and refusal of worldly power according to the testimony of the Gospels, together with polemics against luxury, greed, avarice of the clergy (in particular of Roman pontiffs and of their cardinals), and corruption in the distribution of privileges. It is enough to recall that the chapter culminates in widespread quotation from Bernard of Clairvaux's *De consideratione*, almost a commonplace in the writings of the time.⁶⁹

⁶⁷ Annabel Brett, "Politics, Right(s) and Human Freedom in Marsilius of Padua," in *Transformations in Medieval and Early-Modern Rights Discourse*, ed. Virpi Mäkinen and Petter Korkman (Dordrecht, 2006), pp. 95–116, here pp. 111–12.

⁶⁸ Marsilius of Padua, *Defensor pacis* II.xi.1, p. 256.

⁶⁹ Marsilius of Padua, *Defensor pacis* II.xi.8, pp. 262–63; Miethke, "Marsilius," p. 72.

Chapter XII begins by saying that what has been shown *figuraliter*, that is, relying on examples, needs to be investigated. As *figuraliter* was often used to describe a non-demonstrative way of arguing, it seems that Marsilius wanted to add a more scientific treatment of the issue he had touched upon in the previous chapter.⁷⁰ And indeed, the following three chapters, taken together, reveal a structure that heavily resembles that of a university question, or, more properly speaking, a *determinatio*, that is, the part of the question that contains the Master's solution to the problem at issue.⁷¹ Perhaps it is not by chance that the last words of the poverty chapters are: "Quid quidem igitur sit paupertas meritoria, quisve summus eius gradus...sufficienter determinasse putamus."⁷² After defining the object of his inquiry, that is, the essence, quality and quantity of the poverty of Christ and of the Apostles, he passes to a very detailed preliminary explanation of the possible different meanings of terms involved in the following discussion. These introductory explanations, which correspond perfectly to the *expositiones terminorum* of university questions, constitute a whole chapter. The following chapter contains the exposition of Marsilius' own opinion, where the Paduan in the first place states his conclusions, that is, the main tenets of his position, and then proceeds to their demonstration. The last chapter begins with the exposition of some objections (*rationes in contrarium*), which are discussed at length and finally rejected (*solutio ad rationes*). Some interpreters considered these chapters as an excursus: this impression is confirmed by their structure, which strongly resembles a question. This does not imply, however, that this constitutes a digression in Dictio II. On the contrary, the chapters are closely connected, as we have already seen, to the preceding chapter, forming a demonstration of what there is just shown in a "figurative way."⁷³ Moreover, their conclusions are

⁷⁰ About this meaning of "figuraliter" in Giles of Rome, see Ubaldo Staico, "Retorica e politica in Egidio Romano," *Documenti e studi sulla tradizione filosofica medievale* 3 (1992), 1–75, especially pp. 22–28.

⁷¹ The bibliography concerning the *quaestio* as a literary genre and as a teaching practice is very rich; I refer only to Olga Weijers, *La disputatio dans les Facultés des arts au moyen âge* (Turnhout, 2002), with reference to other works; about *expositio terminorum*, see Roberto Lambertini, "La teoria delle intentiones da Gentile da Cingoli a Matteo da Gubbio," in *L'insegnamento della logica a Bologna nel XIV secolo*, ed. Dino Bozzetti, Maurizio Ferriani and Andrea Tabarroni (Bologna, 1992), pp. 277–351.

⁷² Marsilius of Padua, *Defensor pacis* II.xiv.24, p. 325.

⁷³ Marsilius of Padua, *Defensor pacis* II.xii.1, p. 263.

necessary for the argumentation contained in the following chapters. We know from university teaching practice that the Master used to raise questions when his lecture touched upon a controversial issue. Keeping in mind that Marsilius is not commenting on an authoritative text, as was mainly the case in a university lecture, here the Paduan follows a pattern that was usually applied in the academic transmission of knowledge in his day.

Chapter XII: Distinguishing the Meanings of Terms

Chapter XII, with its 33 paragraphs, is a sort of expanded *expositio terminorum*, although it is not limited, as sometimes happens in disputed questions, to the terms actually present in the formulation of the question but is extended to the key words of the controversy. As usual, some of the definitions foreshadow the argumentative strategy which the author is going to implement later on. So Tierney rightly pointed out that Marsilius makes a clear-cut distinction between *ius* as meaning the same as *lex* and *ius* meaning a *potestas*, and he also conceives of *dominium* as a kind of *ius* in the latter sense.⁷⁴ Brett remarks that the Paduan also distinguishes between two main meanings of *ius naturale*, claiming that “natural” is used equivocally: in its first sense, the Aristotelian one, “natural” is applied to human laws that happen to be the same everywhere in the world and are, in this way, similar to natural phenomena. In the second meaning, natural law coincides with the dictates of right reason.⁷⁵ As we already know from Dictio I, Marsilius evinces doubts about the consistency of the latter meaning of *ius naturale*: this will emerge again in his treatment of the poverty issue. In the following discussion, it is of the utmost importance to keep in mind that Marsilius defines *dominium* as a kind of *ius* and claims that it depends on the will, so that nobody must have *dominium* if he wants to renounce it.⁷⁶

⁷⁴ Marsilius of Padua, *Defensor pacis* II.xii.6, 10, 11, 12, pp. 268–70; see Tierney, *The Idea*, pp. 109–10.

⁷⁵ Marsilius of Padua, *Defensor pacis* II.xii.7–8, pp. 268–69; cf also Brett, “Politics,” pp. 105–09.

⁷⁶ Marsilius of Padua, *Defensor pacis* II.xii.13–16, pp. 270–71; see Tierney, *The Idea*, pp. 111–14.

Chapter XIII: Marsilius' Position

The actual discussion of the question at stake begins in Chapter XIII, which, according to the title, deals first with the state of poverty and then proceeds to show that Christ and the Apostles observed it. In the first paragraphs, Marsilius sets out to show that it is possible to have the *potestas* of using and consuming a thing without any dominion. This power is called by somebody, he remarks, *simplex usus facti*. As is well known, this is the expression coined by Pope Nicholas III in his Bull *Exiit qui seminat* to define the relationship of the Friars Minor to the goods they consumed.⁷⁷ Franciscan authors engaged in defending their theory of poverty appealed, of course, to this concept. In the following lines, Marsilius insists on an important corollary of his claim: the separability of use and *dominium* in consumables. Besides arguing on a rational and scriptural basis in favor of separability, Marsilius brands the opposite view as heretical.⁷⁸ The argument from inseparability was strongly endorsed by the critics of the Franciscan theory of poverty since the time of Gerard of Abbeville⁷⁹ and was repeated also in the writings composed for the papal inquiry about Christ's poverty. Everyone who relies on this argument is potentially the object of Marsilius' accusation, although it is highly probable that the main target is the pope himself in his Bull *Ad conditorem canonum*, as many scholars have suggested. In a footnote to her translation, Annabel Brett rightly recalls that also in the *Sachsenhausen Appeal* the argument from inseparability is regarded as a proof of Pope John's heresy.⁸⁰

In the following paragraph, Marsilius counters a *ratio* based on the distinction between act and *habitus* (i.e., a disposition of the soul) to maintain that he who abdicates the act of suing in court does not renounce the capacity of doing it and therefore *dominium*.⁸¹ Such a *ratio* is obviously aimed at interpreting the relevant scriptural passages in a way that does not imply renouncing the right to sue, only

⁷⁷ For an excellent analysis of *Exiit qui seminat*, see Tabarroni, *Paupertas*, pp. 23–33.

⁷⁸ Marsilius of Padua, *Defensor pacis* II.xiii.6, p. 280.

⁷⁹ Roberto Lambertini, *Apologia e crescita dell'identità francescana* (Rome, 1990), pp. 65–73.

⁸⁰ Marsilius of Padua, *The Defender of the Peace*, p. 267, note 12. For the most recent assessment regarding this document, see Eva Luise Wittneben, *Bonagratia von Bergamo: Franziskanerjurist und Wortführer seines Ordens im Streit mit Papst Johannes XXII* (Leiden, 2003), pp. 229–53, who rightly emphasizes that Michael of Cesena and Bonagratia at that point were trying to avoid a break with the pope.

⁸¹ Marsilius of Padua, *Defensor pacis* II.xiii.7, p. 280.

abstaining from having recourse to that right. The authors of the Italian translation suggest that this paragraph also has John XXII as target.⁸² As a matter of fact, the argument as such is not to be found in either version of the *Ad conditorem canonum*.⁸³ It would be useful to know whether Marsilius had a precise text in mind, but I do not know of any successful attempt to trace back the origin of this *ratio*.

After this polemical exchange, having proved that poverty in the sense of absence of *dominium* is possible, Marsilius goes on to show that voluntary poverty is a meritorious virtue. In this context, too, he is confronted with an opposite view, which maintains that poverty is identical with *caritas*. Some commentators refer here to *Ad conditorem canonum*, where the pontiff states that Christian perfection consists in charity.⁸⁴ Some of them also recall that Aquinas held a similar position in his *Summa Theologiae*.⁸⁵ Maintaining that poverty and charity are identical and emphasizing the tight connection between charity and perfection may have belonged to the common argumentative strategy of denying an essential role to poverty in Christian perfection, but they are different claims. It seems to me, therefore, that the reference to Hervaeus Natalis' tract on poverty is more pertinent. In this treatise, the Dominican General Master argues in favor of the identity of poverty in its meritorious aspect with charity, using also some terms that are quite similar to those in the *Defensor pacis*, as Annabel Brett rightly pointed out following a suggestion of Quillet's.⁸⁶

Marsilius:

Nor is it an objection if someone says that the virtue by which we tend towards God in love is essentially the same as that by which we withdraw from the inordinate desire for temporal things... Since, therefore, it is

⁸² Marsilio da Padova, *Il Difensore della pace*, II, trans. Mario Conetti, Claudio Fiocchi, and Stefano Radice (Milan, 2001), pp. 570–71.

⁸³ The later redaction is critically edited in *Extravagantes Iohannis XXII*, ed. Jacqueline Tarrant (The Vatican, 1983), pp. 228–54; the first, shorter version of the bull can be found in Nicolaus Minorita, *Chronica: Documentation on Pope John XXII, Michael of Cesena and the Poverty of Christ with Summaries in English: A Source Book*, ed. Gedeon Gal and David Flood (Saint Bonaventure, NY, 1996), pp. 83–88; analysis in Tabarroni, *Paupertas*, pp. 73–83.

⁸⁴ Marsile de Padoue, *Le défenseur de la Paix*, ed. Jeannine Quillet (Paris, 1968), p. 303; cf. *Ad conditorem canonum*, p. 232: "Cum enim perfectio uite Christiane principaliter et essentialiter in caritate consistat."

⁸⁵ For example, the authors of the recent Italian translation, *Il Difensore della pace*, p. 579. On Aquinas' theory of poverty as a virtue, see Ulrich Horst, *Evangelische Armut und Kirche* (Berlin, 1992), in particular pp. 55–132.

⁸⁶ Marsilius of Padua, *The Defender of the Peace*, p. 272, notes 22–23.

by charity in itself that we tend towards God, it is by the same virtue, and not another, that we seemingly leave behind the love of temporal things.⁸⁷

Hervaeus:

Charity inclines us to the divine good which is opposed to the love of temporal things in so far as they are impediments to charity. Therefore, charity is the habit through which one is withdrawn from temporal things in so far as they are impediments to charity or the love of the divine. However, to withdraw from temporal goods in this way pertains to poverty as a disposition of the mind... Therefore, when considered as a disposition of the mind, poverty is essentially identical with charity.⁸⁸

Although the coincidence is not exact, it is apparent that we are confronted with different formulations of the same argument. This does not rule out the possibility, of course, of identifying, in the future, a text that is even closer to Marsilius. For now, Hervaeus remains the most likely candidate, not least because other supporters of the Dominican position speak rather of poverty as an instrument of perfection.⁸⁹ The General Master of the Dominicans, on the contrary, is well acquainted with this opinion but does not accept it without qualification.⁹⁰

After Marsilius' dismissal of this opinion, there follows a description of the supreme degree of the meritorious virtue, *summa paupertas*, which is necessary for Christian perfection. In these paragraphs, the Paduan insists on the fact that the perfect must limit their use of goods to their present needs, and, if they have more, they are allowed to retain them only with the intention of giving them to the poor.⁹¹

⁸⁷ Marsilius of Padua, *Defensor pacis* II.xiii.19, p. 285: "Nec obstat sermo dicentis eandem esse virtutem essentialiter qua in Deum tendimus per dilectionem et qua recedimus ab inordinato rerum temporalium desiderio... cum ergo caritate per se tendamus in Deum, eadem igitur, non alia virtute ab amore temporalium exire videmur." I am using Annabel Brett's translation: Marsilius of Padua, *The Defender of the Peace*, p. 272.

⁸⁸ Hervaeus Natalis, *De paupertate Christi et Apostolorum*, ed. Jeffrey G. Sikes, in "Hervaeus Natalis: De paupertate Christi et Apostolorum," *Archives d'histoire doctrinale et littéraire du Moyen Âge* 12–13 (1937–38), 227: "...caritas inclinat in bonum divinum cui opponitur amor temporalium in quantum sunt impeditiva caritatis, ergo caritas est habitus per quem receditur a temporalibus in quantum sunt impeditivi caritatis vel amoris divini, sed sic recedere a bonis temporalibus pertinet ad paupertatem... ergo paupertas secundum praeparationem animi est caritas essentialiter..." I am using Jones's translation: Hervaeus Natalis, *The Poverty of Christ and the Apostles*, trans. John D. Jones (Toronto, 1999), p. 29, with minor modifications.

⁸⁹ Horst, *Evangelische*, p. 70; Tabarroni, *Paupertas*, pp. 45–48, 52–58.

⁹⁰ Hervaeus Natalis, *De Paupertate*, pp. 231–33.

⁹¹ Marsilius of Padua, *Defensor pacis* II.xiii.22–28, pp. 286–92.

Here Marsilius attacks the view of people who maintain that a vow to accept nothing to distribute to the poor is part of perfection.⁹² It is not easy to locate the possible provenience of such an opinion: it does not belong, at first sight, to the “stock” arguments usually put forward against Franciscan poverty and does not possess any anti-mendicant flavor. I would rather suggest that Marsilius could have in mind here a distinction, which was often used in the writings of mendicant authors themselves, between the status of the friars who vowed perfect poverty and that of prelates who, according to them, reached another kind of perfection by fulfilling their duties, among which managing Church goods in favor of the poor played an important role.⁹³ This cannot be, however, more than a guess. If it can be corroborated, it could confirm the impression that Marsilius is selecting arguments from both sides of the secular-mendicant controversy and thereby defining his own, independent position. In fact, in the following paragraph (32) he is again confronted with a standard argument which belongs to the polemics of secular masters against the poverty ideal of all mendicant Orders, Dominican and Franciscan alike. This position had been attributed to the seculars since the time of William of Saint-Amour, who is accused by the Franciscan Thomas of York of holding that it is closer to the Christian idea of perfection to keep immovable properties in order to support the poor from their revenues than to renounce them at once, remaining therefore without means to help other people.⁹⁴ Marsilius rejects this objection, defending the interpretation of Christian perfection that implies renouncing at once all dominion over goods, be they movable or immovable.⁹⁵ The final paragraphs of Chapter XIII are devoted to the proof that Christ did live according to the *summa paupertas*. In doing so, Marsilius states that Christ did have things as an individual and as a member of the Apostolic community, without exercising, however, any dominion over them. One of the arguments he uses—i.e., that it is impossible that Christ did not observe

⁹² Marsilius of Padua, *Defensor pacis* II.xiii.29, p. 292.

⁹³ Lambertini, *Apologia*, pp. 82–87. For Aquinas’ views on the duties of bishops, see Ulrich Horst, *Bischöfe und Ordensleute* (Berlin, 1999), especially pp. 93–99.

⁹⁴ Thomas of York, *Manus que contra Omnipotentem tenditur*, c. 3, ed. Max Bierbaum, in *Bettelorden und Weltgeistlichkeit an der Universität Paris* (Münster, 1920), pp. 37–168, here pp. 48–49. Recently Andrew Traver has published minor works by William of Saint-Amour in praiseworthy critical editions; see, e.g., his *The Opuscula of William of Saint-Amour: The Minor Works of 1255–1256* (Münster, 2003).

⁹⁵ Marsilius of Padua, *Defensor pacis* II.xiii.32, p. 294.

all his counsels in a perfect way, because otherwise there could exist a person more perfect than him—belongs to the Franciscan apologetic tradition and is witnessed, for example, in Bonagratia's response to the papal inquiry.⁹⁶ In the same pages, however, Marsilius parts ways with the mainstream apologetic tradition of the Order, as Spiers has already noticed, criticizing another traditional Franciscan argument, that of the *condescensio infirmorum*.⁹⁷ The argument, which appears as early as the 1250s, during the heated controversies between the secular clergy and mendicant orders mainly at the University of Paris, was originally used as an exegetical tool to overcome difficulties caused to the Minorite position by certain passages of the New Testament, where Christ and the Apostles seem to own goods and money. It is attested already in Bonaventure's *Quaestiones de perfectione evangelica* and in Thomas of York's *Manus que contra omnipotentem*.⁹⁸ The core of the argument consists in claiming that some of Christ's acts were designed to be a model for the perfect, while others, on the contrary, show how he lowered himself to the level of the weak, in order not to condemn the status of the believers who were not strong enough to observe his counsels. Although it was heavily attacked by Gerard of Abbeville, who thought that such an argument would imply the imperfection of all bishops and even of the pope,⁹⁹ this *ratio* found its place in many Franciscan treatises and, as Tabarroni showed very well, also in the most authoritative Minorite responses to the papal inquiry.¹⁰⁰ The only dissenting voice that is known to me is Peter John Olivi, who, in his eighth *Quaestio de perfectione evangelica*, does not conceal his dissatisfaction with this *ad hoc* solution and suggests an alternative interpretation.¹⁰¹ Marsilius and Olivi agree in judging weak

⁹⁶ Marsilius of Padua, *Defensor pacis* II.xiii.33, p. 295 and II.xiii.36, pp. 297–98; Bonagratia of Bergamo, *Tractatus de paupertate Christi et Apostolorum*, in Livarius Oligier, "Fr. Bonagratia de Bergamo et eius tractatus de Christi et apostolorum paupertate," *Archivum Franciscanum Historicum* 22 (1929), 330.

⁹⁷ Marsilius of Padua, *Defensor pacis* II.xiii.38, pp. 298–99; Spiers, "The Ecclesiastical," p. 7.

⁹⁸ Lambertini, *Apologia*, pp. 28–29.

⁹⁹ Lambertini, *Apologia*, pp. 72–73.

¹⁰⁰ Tabarroni, *Paupertas*, esp. pp. 36–41.

¹⁰¹ Petrus Johannis Olivi, *An status altissimae paupertatis sit simpliciter melior omni statu divitiarum*, ed. Johannes Schlageter, in *Das Heil der Armen und das Verderben der Reichen: Petrus Johannis Olivi* (Werl, 1989), pp. 181–82; Roberto Lambertini, "La difesa dell'Ordine francescano di fronte alle critiche dei Secolari in Olivi," in *Pierre de Jean Olivi (1248–1298): Pensée scolastique, dissidence spirituelle et société*, ed. Alain Boureau and Sylvain Piron (Paris, 1999), pp. 193–205.

an argument that was widely accepted in the Franciscan tradition, because both find it difficult to admit that Christ could be said to have done anything imperfect, for whatever reason. As often happens in the writings of late medieval university masters, Marsilius puts forward another possible answer to the *condescensio* argument, as an alternative to his own first one. He says that even if it was the case that Christ had done something for the imperfect, this would not have affected his perfection, because of the intention that would have moved him. This does not entitle those who want to be his perfect imitators to do the same, because in them the performance of such acts would diminish their perfection.¹⁰² This alternative answer reveals clearly that behind Marsilius' dissatisfaction with the condescension argument lies the suspicion that it can be used to justify practices that exceed the limits imposed on the perfect. Although he is very well known for his engagement in favor of *usus pauper*, Olivi had not revealed, in the passage at issue, any similar concern. Such a partial agreement between Marsilius and Olivi cannot obviously prove that the Paduan depended on the controversial theologian from Perpignan; they could simply concur, perhaps for different reasons, in denouncing the weakness of an argument.

Chapter XIII ends by evoking the martyrs and figures such as Cato and Scipio as examples of a virtue which has become uncommon in Marsilius' own day, since it is difficult to find persons who are willing to observe perfect poverty.¹⁰³ Marsilius' silence about the existence of a whole Order that had been claiming for decades to practice apostolic poverty to its highest degree and was involved in an acrimonious controversy because of that claim is telling.

Chapter XIV: Answering the Objections

In Chapter XIV, the discussion begins with a usual list of *rationes in contrarium*. A closer look at them is revealing. Even at first sight, the arguments are not homogeneous. Paragraph 1 centers around the impossibility of bishops and priests renouncing that they will keep something for the future and, at the same time, for the necessities of their lives and preaching activity. Marsilius collects quotations from the Holy Scripture and the Gloss which show that the apostolic

¹⁰² Marsilius of Padua, *Defensor pacis* II.xiii.38, pp. 298–99.

¹⁰³ Marsilius of Padua, *Defensor pacis* II.xiii.39, p. 300.

community did keep something for the future.¹⁰⁴ Paragraphs 2, 3, and 4, in contrast, contain arguments that should prove *per necessitatem* (I take it to mean on rational grounds rather than on the basis of mere scriptural authority) that the perfect can have dominion, especially consumables.¹⁰⁵ As a matter of fact, the second part of paragraph 4 returns to the issue of the provision for the future on part of bishops (who have a duty of hospitality) and of the property they had in the ancient Church. Paragraph 5 consists of two arguments concerning Christ, who, respectively as redeemer and king, enjoyed universal dominion over all temporal things.¹⁰⁶ Here Marsilius is apparently gathering arguments that could have belonged to different discussions. The debate about the relationship between poverty and Christian perfection in general had already flared up at the time of the secular-mendicant controversy in the thirteenth century. Secular masters, such as William of Saint-Amour and Gerard of Abbeville, had defended the idea that moderate possession of goods was more suitable for bishops and priests charged with the pastoral care of their faithful and argued that mendicant poverty was a dangerous novelty, both because it was based on a mistaken interpretation of Christian perfection and because it jeopardized the correct exercise of pastoral duties. Arguments that militate against absolute poverty appealing to the duties of priests and bishops seem therefore to belong rather to that trend of discussion, which is specifically directed not toward the Franciscan theory but toward the concept of a religious mendicant Order in itself.¹⁰⁷ On the contrary, *rationes* based on issues such as consumables and the inseparability of use and right of use are directed against the Minorites and, as is well known, were used also by representatives of the other mendicant Orders, such as the Dominicans, because their juridical status of owners *in communi* was not affected by such problems. Arguments based on Christ's kingship and his universal dominion were, to my knowledge, unusual in the poverty debates, at least until the 1320s,¹⁰⁸ but possess a distinctive anti-Franciscan flavor,

¹⁰⁴ Marsilius of Padua, *Defensor pacis* II.xiv.1, pp. 301–02.

¹⁰⁵ Marsilius of Padua, *Defensor pacis* II.xiv.2–4, pp. 302–04.

¹⁰⁶ Marsilius of Padua, *Defensor pacis* II.xiv.5, p. 304.

¹⁰⁷ Lambertini, *Apologia*, pp. 11–16, 65–78.

¹⁰⁸ Jean Leclercq, *L'idée de la royauté du Christ au Moyen Age* (Paris, 1954), especially pp. 171–91. This issue gained much more relevance in the poverty controversy after John XXII's *Quia vir reprobus*; see Roberto Lambertini, *La povertà pensata* (Modena, 2000), pp. 249–68.

since a Christ who as a man has a universal dominion over the world cannot be said to be poor. The disparate character of these arguments shows that Marsilius is arguing at the same time against those who refuse poverty and abdication of all dominion as a standard of perfection for all ecclesiastical institutions and those who maintain that such a renunciation *in proprio et in communi* is impossible even for a small group within the Church.

As mentioned before, as early as 1977, Spiers had pointed to Hervaeus Natalis as a source for one argument, contained in paragraph 5, that rests on redemption and concludes that, for this reason, *secundum naturam humanam* Christ has a right to all human beings and their goods.¹⁰⁹

Spiers' suggestion is corroborated not only by the literal proximity that he noticed but also by the fact that, as mentioned above, Annabel Brett has identified Hervaeus as a very likely source of another argument Marsilius discusses; the two clues strengthen each other. Moreover, the *rationes* contained in paragraphs 2 and 3 have a parallel in the same work by the Dominican General Master. The first one starts quoting by Luke 22, where Christ invites the Apostles to sell their garments to buy swords, and proceeds: "But anyone who buys or sells something transfers the dominion of a thing or the price to another. Therefore Christ and the Apostles had the said dominion." Although not referring to the same passage from Luke, Hervaeus makes a long

¹⁰⁹ Marsilius of Padua, *Le défenseur de la Paix*, p. 231, following Gewirth, points to Giles of Rome as a possible source. The passage (Aegidius Romanus, *De ecclesiastica potestate*, II.10, ed. Richard Scholz [Leipzig, 1928], p. 95) they refer to, however, speaks of the Church, and not of Christ, and of redemption from sin, not from death. Hervaeus is much closer. See Hervaeus Natalis, *De paupertate*, p. 281. "...dico quod secundum humanam naturam debetur sibi ius in talibus potius quam debeatur ius cuicumque domino in servo eius iuste acquisito et in rebus ipsius servi, et hoc debetur sibi ratione redemptionis, quia potius ius debetur illi qui hominem iuste damnatum quantum ad mortem corporis et animae liberat ab utraque morte in illo homine liberato, quam debeatur ius cuicumque liberanti hominem iuste damnatum quantum ad mortem corporis ab ipsa morte in homine sic liberato, sed liberanti homine iuste damnatum quantum ad mortem corporis ab ipsa morte corporali debetur ius in sic liberato tamquam in servo et in rebus eius tanquam in rebus servi, ergo Christo secundum humanam naturam ratione redemptionis totius generis humani in omnibus hominibus et in bonis eorum, debetur tamquam in servis suis et in bonis servorum suorum"; compare with *Defensor pacis* II.xiv.5, p. 304: "...quoniam secundum leges eciam humana, qui aliquem redimit a morte, illius dominus efficitur et per consequens omnium suorum temporalium. Sed Christus nos a morte redemit, non quacumque, sed ab eterna; ergo nostrorum corporum et temporalium acquisivit dominium."

argument based on the fact that the Apostles, according to the Gospels, bought and sold goods, which implies transferring the dominion.¹¹⁰

In the following paragraph, Marsilius inserts a *ratio* that grounds the inseparability of *usus* and *dominium*: it also has a parallel in Hervaeus, that, although not literally identical, shows many conceptual affinities.

Marsilius:

The second is proved from the use that Christ and the apostles had of goods for consumption: since either they had the use of a thing that was their own by right, or of one that was their own by right, therefore, they had dominion of the thing at the same time as its use: If they had the use of a thing that was not their by right, then either it belonged to another or it belonged to no one, then, since anything of this kind is granted by right to the one who occupies it, and Christ and the apostles must necessarily have occupied the thing either before or at the same time as they used it, it follows that they had dominion of it before or at the same time as the use of it. If, however, the use was of a thing that belonged to another, then it was either at the concession of the owner of the thing or not...¹¹¹

Hervaeus:

...then I ask: how they have them in a way different from others? For, either they themselves had a right to these things and others did not or they actually or they kept actually kept these things without any right to use or to keep them. If the first case is true, then the proposition is proved, namely, that they had a right to the things themselves. If the second case holds, namely, they actually kept things without a right to keep them—then I ask whether those goods were reckoned among the goods of someone or no one. If these things were reckoned among the goods belonging to no one, then by this very fact, they were granted to the person holding them; and consequently, by this very fact that the apostles held them, they had a right to them. If these things were reck-

¹¹⁰ Marsilius of Padua, *Defensor pacis* II.xiv.2, p. 302; cf. Hervaeus Natalis, *De paupertate*, pp. 289–90.

¹¹¹ Marsilius of Padua, *Defensor pacis* II.xiv.4, p. 303: “Secunda vero probatur ex eo usu rerum consumptibilium, quem Christus et Apostoli habuerunt quoniam vel habuerunt usum rei suae de iure vel non suae de iure. Si usum rei suae de iure, ergo habuerunt simul cum usu rei dominium; si vero rei non suae, aut ergo aliene aut rei quae in nullius bonis erat ante usum eius. Si rei erat quae in nullius bonis erat, cum tali occupanti concedatur de iure, Christus autem et apostoli prius aut simul tempore cum usu rem occupaverunt, ergo ipsius dominium ante usum vel simul cum usu habuerunt. Si vero usus talis fuit in rem alienam, aut fuit hoc concedente domino rei vel non concedente.” I am using again Annabel Brett’s translation Marsilius of Padua: *The Defender of the Peace*, p. 289.

oned among the goods of someone, the Christ and the apostles either kept these goods with that person's permission or they did not...¹¹²

The evidence collected so far needs to be evaluated. The connections Spiers and Brett emphasize are striking, since, as far as I know, no other author than Hervaeus has recourse to an argument from redemption¹¹³ to corroborate the claim that Christ had indeed a universal dominion. Again, the identification of poverty and charity as virtues seems to be peculiar to Hervaeus, while many other participants in the debate preferred to embrace Aquinas' view of poverty as an instrument of perfection. The situation is different for the similarities to which I point: many supporters of the anti-Franciscan position made obvious reference to passages from the Gospel where Christ and the Apostles are said to buy, sell, or possess something¹¹⁴ and almost everybody insisted on the necessary connection between use and right of using. It seems to me, however, that, in the case of Hervaeus, the structure of the argument is very similar, although couched in a different wording. Taken together with Spiers' and Brett's achievements, these elements strengthen even more the hypothesis that Marsilius did have access to Hervaeus' arguments. One might see a further clue in the fact that Hervaeus, too, devotes a section of his tract to the issue of the prohibition of reservation for the future,¹¹⁵ although he maintains, obviously, the contrary of what Marsilius claims. A comparison shows that Hervaeus refers at least once to passages from the Gospel (and their Gloss) which appear as the scriptural basis of the *ratio in contrarium* contained in Marsilius' paragraph 1 of Chapter XIV.¹¹⁶

¹¹² Hervaeus Natalis, *De paupertate*, pp. 283–84: "...quaero per quem modum habebant aliter quam alii homines, quia scilicet <aut> ipsi habebant ius in illis rebus et non alii, aut quia actualement detentionem haberent in illis rebus sine quocumque iure utendi vel detinendi. Si primo modo, habetur propositum, scilicet quod habebant ius in illis rebus; si secundo modo, scilicet quod ipsi haberent actualement detentionem in rebus illis sine quocumque iure detinendi, quaro utrum illa bona computabantur in bonis alicuius aut nullius. Si computabantur in bonis nullius, tunc ipso facto occupanti concedebantur, et per consequens ipso facto quod apostoli occupabant, habebant in eis ius; si computabantur in bonis alicuius, aut ipsi detinebant illa bona de licentia illius aut non..." I am using again James Jones' translation: Hervaeus Natalis, *The Poverty of Christ*, p. 99.

¹¹³ See above, pp. 247–48.

¹¹⁴ Tabarroni, *Paupertas*, pp. 48–62.

¹¹⁵ Hervaeus Natalis, *De paupertate*, pp. 254–66.

¹¹⁶ Marsilius of Padua, *Defensor pacis* II.xiv.1, pp. 301–02; Hervaeus Natalis, *De paupertate*, p. 263.

In many other cases, weaker evidence has been considered sufficient to establish a dependence of one text on another. Lacking any literal coincidence, I consider that it is safer to conclude that Hervaeus can be seen as the source (be it direct or indirect) of some of the most important arguments Marsilius puts forward as *rationes in contrarium* in the opening paragraphs of Chapter XIV. However, Hervaeus could not be the only source of the materials used here by Marsilius. To take a single example, one would rather think that the argument contained in paragraph 4, resting on the concept of *res nullius*, is present in Durandus' response in a form quite close to the one we find in the *Defensor pacis*,¹¹⁷ while Hervaeus does not appeal to the same argument, although he uses, as seen above, the concept of *res nullius* for a different argumentative purpose.

Spiers had also suggested a "possible common source" of Marsilius and John XXII, showing clearly that the response of what he called the Paris *studium* was used in *Quia vir reprobus*, as far as the claim is concerned that Christ as a human being had dominion over all goods of the world from the very instant of his conception.¹¹⁸ I do not think that there are serious reasons to doubt the first part of Spiers' conclusion, but the issue of the relationship to the text of the *Defensor pacis* is more difficult to assess: first, according to Spiers, Marsilius mentions explicitly the heresy that "Christ as man had dominion over all temporal things" only in a later addition to the *Defensor*; second, there is no literal resemblance to the Paris response. As a matter of fact, Spiers is right in saying that there is no need to date the addition after *Quia vir reprobus*, because Marsilius could have been acquainted with the issue of the universal dominion of Christ as man earlier. One possibility is that he had come across this claim in what Spiers calls the Paris *studium* response. Admittedly, however, the addition cannot be necessarily linked to that response, since it describes the "heresy" in terms that could fit—as seen above—Hervaeus, too. Furthermore, Spiers seems to assume that only the later addition testifies to Marsilius' acquaintance with the claim of Christ's universal dominion. This does

¹¹⁷ Durandus a Sancto Porciano, *De paupertate Christi et Apostolorum*, in Jürgen Miethke, "Das Votum De paupertate Christi et apostolorum des Durandus von Sancto Porciano im theoretischem Armutsstreit: Eine dominikanische Position in der Diskussion um die franziskanische Armut (1322/3)," in *Vera Lex Historiae: Studien zu mittelalterlichen Quellen, Festschrift für Dietrich Kürze*, ed. Stuart Jenks, Jürgen Sarnowsky, and Marie-Luise Laudage (Cologne, 1993), pp. 149–96, in particular pp. 171–72.

¹¹⁸ Spiers, "Pope John," especially pp. 476–78.

not hold necessarily true, because, if one focuses on the second part of paragraph 5, it becomes apparent that here Marsilius is reproducing an argument *in contrarium* that is based on Revelation 19:16, where one reads that Christ had “on his vesture a name written: king of kings and lord of lords,” together with the Gloss that interprets “vesture” as denoting Christ’s human nature. Even though he does not use exactly the same terms as in the later addition, this *ratio* shows that since the first redaction of the *Defensor*, Marsilius was aware of an argument that connected, on the basis of Revelation 19:16, Christ’s kingship as man to a universal temporal dominion, denying therefore that Christ was poor.¹¹⁹ The problem is to locate the possible origin of the argument.

Since Spiers’ study, a major change has occurred in the available evidence concerning this text, because Louis Duval-Arnould identified the author of the response previously attributed to the *studium* as the Dominican Theology Master Raimond Béquin. The text, anonymous in Vatican City, Biblioteca Apostolica Vaticana, Vat. lat. 3740, is transmitted among Béquin’s questions and is clearly attributed to him in some other manuscripts.¹²⁰ The notes “Determinatio Parisiensis data per domnum Cardinalem Viennesem” and “Hoc dedit dominus Cardinalis Viennensis de studio Parisiensi” contained in Vat. lat. 3740, which had previously misled scholars, should therefore be interpreted as referring to a magisterial *determinatio* of the question held in Paris and made available to the pope in Avignon by Cardinal Simon d’Archiac.¹²¹ Duval-Arnould’s discovery is relevant also because the text

¹¹⁹ Marsilius of Padua, *Defensor pacis* II.xiv.5, p. 304. Cf Marsilius of Padua, *The Defender of the Peace*, p. 290, which rightly refers to the Interlinear Gloss. Unfortunately, Annabel Brett does not mention Spiers’ articles in this respect and does not use his results.

¹²⁰ Louis Duval Arnould, “Les conseils remis à Jean XXII sur le problème de la pauvreté du Christ et des Apôtres (ms. Vat. Lat. 3740),” in *Miscellanea Bibliothecae Apostolicae Vaticanae* 3 (The Vatican, 1989), pp. 185–86. See also Thomas Kaeppli, *Scriptores Ordinis Praedicatorum Medii Aevi* III, I-S (Rome, 1980), pp. 278–79 (also for Béquin’s biography); Thomas Kaeppli and Emilio Panella, *Scriptores Ordinis Praedicatorum Medii Aevi*, IV (Rome, 1993), p. 243. No objection to this attribution is made in Ulrich Horst, “Raimundus Bequin OP und seine Disputation ‘De paupertate Christi et Apostolorum’ aus dem Jahr 1322,” *Archivum Fratrum Praedicatorum* 64 (1994), 101–18. Patrick Nold, *Pope John XXII and his Franciscan Cardinal: Bertrand de la Tour and the Apostolic Poverty Controversy* (Oxford, 2003), pp. 34–42, offers interesting new insights regarding the collection of texts contained in MS Vatican City, Vat. lat. 3740, although I cannot share some basic assumptions of his stimulating work.

¹²¹ Duval-Arnould, “Les conseils,” p. 185.

was obviously seen by Spiers and Tabarroni¹²² as the official opinion of the Parisian Faculty of Theology and therefore of the Parisian Secular Masters. In fact, it proves to be the intervention of a Dominican Master. If it is possible to show that Marsilius is actually arguing against this text, this would modify also our view of his opponents. Such a proof, however, cannot be based merely on the fact that Marsilius is attacking the opinion that Christ as a human being possessed universal dominion, because Hervaeus also shared this view. What could point directly to Béquin is the use of Revelation 19:16 and of the Interlinear Gloss to support his claim: as a matter of fact, this passage is the third among the four quotations Béquin takes from the New Testament to prove his thesis.¹²³ This remains but a clue, since one cannot obviously be sure that Marsilius could not have found elsewhere the same use of the passage from Revelation. For my part, I can only remark that Hervaeus Natalis never uses this passage to this purpose, that Durandus does not even address the issue of the universal dominion of Christ as a human being nor does Domenicus Grima, Dominican *magister sacri palatii* at that time,¹²⁴ and, finally, that John of Naples does not touch upon this issue in the versions of his question that antedate the *Defensor pacis*.¹²⁵ The corpus of the works composed on the occasion of the papal inquiry has not been explored in full yet, not to speak of other possible sources. As for now, Spiers' suggestion, if duly modified, deserves serious consideration.

Marsilius' answer to the objections listed at the beginning of Chapter XIV raises the issue of ecclesiastical poverty: Paragraphs 6 to 10 describe how clergy should live according to Christ's example of relying on the spontaneous material support of the faithful.¹²⁶ As Brett

¹²² Tabarroni, *Paupertas*, pp. 54–55, which is still important for the interpretation of the text.

¹²³ I refer to the version examined in MS Vatican City, Vat. lat. 3740, fols 248va–261ra, in particular fol. 251va.

¹²⁴ MS Vatican City, Vat. lat. 3740, fol. 228; Duval-Arnauld, "Les conseils," pp. 180–81.

¹²⁵ Anneliese Maier, *Zur Textüberlieferung einiger Gutachten des Johannes de Napoli*, in *Ausgehendes Mittelalter, Gesammelte Aufsätze zur Geistesgeschichte des 14. Jahrhunderts*, III (Rome, 1977), pp. 481–504 (but one should not forget that the version handed down to us in Gravina's edition [Johannis de Neapoli o.p. *Quaestiones variae Parisius disputatae*, ed. Dominicus Gravina, Napoli 1618] quotes at p. 366 the bull *Quia quorundam mentes* [Extravagantes Iohannis XXI], pp. 257–87, here p. 274) and therefore postdates Marsilius' *Defensor*.

¹²⁶ Marsilius of Padua, *Defensor pacis* II.xiv.6–10, pp. 305–10.

rightly remarks, Marsilius' description refers clearly to secular clergy, assigned to local communities, and not to the mendicant orders of his day.¹²⁷ The dominion of the goods made available to them should be attributed to the *legislator humanus*, that is, the secular authority.¹²⁸ It is in this context, in paragraph 8, that Marsilius' later addition against the "heresy" of the universal dominion of Christ is inserted.¹²⁹ Its location in the text, in the middle of an argument that is complete without that remark, confirms its nature as an addition, albeit genuine. Having explained his view of how a perfectly poor clergy should live, Marsilius turns his attention to the actual *rationes in contrarium* and refutes them.¹³⁰ From paragraph 18, the Paduan passes to the objections relying on the issue of the connection between *dominium* and *usus*, engaging in a lively exchange of arguments and counterarguments with his adversary, designated as "disputans." Given the present state of knowledge, I must leave open the question of whether Marsilius has here in mind an actual person or is creating a "virtual" opponent, although I incline to the second possibility. At any rate, the choice of the word *disputans* seems to connote the kind of argumentation he is carrying on particularly in these paragraphs, which is actually very close to a university disputation, with the usual display of logical skills.¹³¹ For a detailed analysis of Marsilius' arguments, which would exceed the limits of the present contribution, I refer to Tierney's and Brett's articles.¹³² In this context, at paragraph 20, Marsilius brands again the claim of the inseparability of use and dominion in consumables—and therefore, implicitly, also Pope John XXII—as heretical.¹³³ After rejecting the last four objections, and among them the two relating to the universal dominion of Christ,¹³⁴ Marsilius concludes the chapter with the remark that the pope and the bishops cannot claim to live in a state of Christian perfection if they wish to possess goods and exert dominion over them, even though it is possible that they are allowed

¹²⁷ Marsilius of Padua, *The Defender of the Peace*, p. xxix; but see also Miethke, "Marsilius," pp. 73–74.

¹²⁸ Marsilius of Padua, *Defensor pacis* II.xiv.8, p. 306.

¹²⁹ Marsilius of Padua, *Defensor pacis* II.xiv.8, p. 307.

¹³⁰ Marsilius of Padua, *Defensor pacis* II.xiv.11–17, pp. 310–14.

¹³¹ Marsilius of Padua, *Defensor pacis* II.xiv.18–20, pp. 315–21; see, for example, paragraph 18, p. 315: "Sed dicet disputans...primam vero propositionem istius paralogismi concedo...sed cum additur...commititur figura dictionis."

¹³² Tierney, *The Idea*, pp. 111–16; Brett, "Politics," pp. 109–12.

¹³³ Marsilius of Padua, *Defensor pacis* II.xiv.20, p. 320.

¹³⁴ Marsilius of Padua, *Defensor pacis* II.xiv.21–24, pp. 321–25.

to do so while remaining in a state of salvation.¹³⁵ With this closing, the Paduan stresses again his distance from the traditional Franciscan “apologetics,” which understandably insisted on the fact that prelates were also in a state of perfection of their own, although they did not renounce dominion because of their duties in the community.¹³⁶

CONCLUSION

Summarizing the results of this survey, I would say that, in need of a precise definition of meritorious poverty as a cornerstone of his ecclesiology, Marsilius inserts into Dictio II an excursus in the form, broadly speaking, of a *quaestio* about the nature and limits of the poverty of Christ and of the Apostles. The question was rooted in the controversies of the past that had been recently renewed by papal enactments that first triggered a debate on the issue and then an authoritative declaration in favor of one solution, branding the opposite as heretical. Marsilius takes a stance in favor of the latter, which had been defended in vain by the representatives of the Order of the Friars Minor. He shows himself to be well acquainted with arguments and counterarguments exchanged in the context of the controversy. Moreover, it is very likely that he had access to the arguments of one of the most brilliant supporters of the opposite opinion, the General Master of the Dominicans Hervaeus Natalis, who, as Tabarroni rightly pointed out,¹³⁷ enjoyed the favor of John XXII and played a very influential role in the whole affair. If it can be confirmed that Marsilius directed his criticism also against Raymond Béquin, named in 1324 Patriarch of Jerusalem and member of the commission in charge of the examination of William of Ockham’s writings, this would mean that his polemical targets were leading intellectual representatives of the Dominican Order. Claiming that Christ and the Apostles observed the highest poverty, having renounced dominion *in proprio et in communi*, and defending this claim against the subtle objections that had been raised against it during the debate, Marsilius in point of fact sided with the Franciscans.

¹³⁵ Marsilius of Padua, *Defensor pacis* II.xiv.25, p. 325.

¹³⁶ This is apparent in Bonaventure’s *Apologia*, which exerted an influence on following tradition; see Lambertini, *Apologia*, pp. 86–92.

¹³⁷ Tabarroni, *Paupertas*, pp. 56–58.

This does not imply, however, that he was “influenced” by the Franciscans, in the usual meaning of this expression. Thanks to a comparison with standard texts of the Minorite apologetic tradition, it is possible to show that he parts company with the Franciscans on many essential points, both through his statements and his silence. He not only overtly rejects the “condescensio infirmorum” argument, whose weakness was clear also to Olivi, but additionally omits any reference to a distinction between the community of the Apostles and the rest of the disciples, a solution that had been adopted by the Franciscans since Bonaventure’s *Apologia pauperum*. He also avoids mentioning Bonaventure’s suggestion that the Apostles could embody, in different situations, different models of perfection: one to be imitated by Church prelates, another by the preachers of the Gospel following Christ’s counsels. This would be, in fact, in direct contradiction with Marsilius’ ecclesiological assumptions. In his opinion, as many commentators have already noticed, evangelical perfection is proposed for the whole clergy. This explains why he repeatedly refers to examples concerning the bishops, and discusses arguments that could be traced back to times when the mendicant choice in itself, and not only in its Franciscan form, was seen by the secular masters as a menace to the ecclesiastical establishment. A “standard” Franciscan defending the position of his Order would have hardly mentioned the bishops in such a context, except to state that they followed a different pattern of perfection.

In order to maintain that Christ and the Apostles had no dominion *in proprio* and *in communi*, Marsilius had to overcome the difficulty of the purported inseparability of use and dominion in consumables and of the inseparability of use and right of using. This was a strong point made by the adversaries of the Franciscan theory of poverty, because from this argument it does not simply follow that such poverty is not suitable for churchmen or is not grounded on scriptural evidence. This argument concludes that poverty in the Franciscan sense is a bare impossibility from a logical and juridical point of view. Not coincidentally, the argument from “inseparability” plays a pivotal role in John XXII’s *Ad conditorem canonum*. It is interesting to remark that Marsilius nowhere resorts, in his treatment of the issue, to the distinction between *ius fori* and *ius poli*, i.e., between positive law and natural law, as was common in the Franciscan tradition and as was also used in Nicholas III’s *Exiit qui seminat*. In the *Defensor pacis*, one would look in vain for a discussion about dominion in the pre-lapsarian state,

while denying the existence of any *dominium* before the Fall was one of the main tenets of Minorite apologetics. Franciscan authors argued in favor of the idea that the apostolic community renewed in itself the relationship to worldly goods that was peculiar to the state of innocence, while dominion and ownership were ascribed to the consequences of original sin.¹³⁸ Marsilius' silence on this topic—which was the subject of lively discussion by many adversaries of the Franciscan position—is telling and reveals once again his mistrust toward the notion of natural law. Gian Luca Potestà hinted at this state of affairs many years ago,¹³⁹ and Annabel Brett has stressed this point in her recent contribution on the Marsilian notion of rights.¹⁴⁰ Marsilius' ideas about dominion, *ius*, and use are so interesting for historians of “rights discourse” also because he defended the *simplex usu facti* without resorting to the Franciscan interpretation of natural law. This fundamental attitude could also explain the absence, in Marsilius' treatment of the poverty issue, of two passages taken from Gratian's *Decretum* to which contemporary supporters of Franciscan poverty almost invariably resorted, i.e., the canons known as *Quo iure* and *Dilectissimis*.¹⁴¹ Spiers admitted his surprise at the fact that the Paduan did not appeal to the canon *Quo iure*, which, in his opinion, would have been useful for sustaining Marsilius' arguments.¹⁴² I think that the reason cannot be that *Quo iure* refers to the existence of *bona ecclesiae*, as suggested by Spiers (Marsilius is able to deal with such passages),¹⁴³ but rather that both canons are connected with the concept of natural law.¹⁴⁴

¹³⁸ Lambertini, *Apologia*, pp. 16, 156–56; Tabarroni, *Paupertas*, pp. 44–46, 60 with note 83, 67–68.

¹³⁹ Potestà, “Marsilio,” p. 462.

¹⁴⁰ Brett, “Politics,” pp. 105–09.

¹⁴¹ See, respectively, *Decretum Gratiani, prima pars*, d. VIII, c. 1, in *Corpus Iuris Canonici*, I, ed. Emil Friedberg (Leipzig, 1879), cols 12–13 and *secunda pars*, causa XII, q. I, c. 2, cols 676–77; about the canon *Quo iure* and its use in the poverty controversy, see Tabarroni, *Paupertas*, pp. 44–46; about the canon *Dilectissimis*, see Bernhard Töpfer, *Urzustand und Sündenfall in der mittelalterlichen Gesellschafts- und Staatstheorie* (Stuttgart, 1999), pp. 174–75.

¹⁴² Spiers, “The Ecclesiastical,” pp. 16–17, note 60.

¹⁴³ See for example Marsilius of Padua, *Defensor pacis* II.xiv.22, p. 322, where he discusses the expression “agri ecclesiae” taken from Ambrose and bends it in a way that is compatible with his own position.

¹⁴⁴ The connection between *Quo iure* and *ius naturae* was already established the *Decretum*, in the *dictum* immediately preceding the canon: *Decretum Gratiani, prima pars*, d. VIII, c. 1, col. 12.

Marsilius took the floor in the debate about apostolic poverty, upholding a conclusion that formally concurs with that defended by the Franciscans, but that he inserted into a quite different theoretical framework, both on the level of ecclesiology and of political theory in general. In such a framework, this conclusion acquires a different meaning and a different function than in the Franciscan apologetics. A detailed study of the relationship between the poverty chapters of *Defensor pacis* and other writings devoted to the same issue improves our understanding of this aspect of Marsilius' thought. From this point of view, further studies of unedited texts related to the poverty controversy can also play a positive role in the progress of Marsilian studies.

CHAPTER EIGHT

THE MINOR MARSILIUS: THE OTHER WORKS OF MARSILIUS OF PADUA

Gianluca Briguglia

Walking through the gardens of the Munich *Residenz*, you might stumble upon a painting, in the portico, to one side of the building, representing, in an eighteenth- or nineteenth-century style, the imperial coronation of Ludwig the Bavarian in 1328 in Rome. The scene is to be found almost at the beginning of a series of paintings illustrating the history of the Wittelsbachs and of the dukes and rulers of Bavaria in their most salient moments. The painting follows the classical schema of the period's pictorial rhetoric: a bearded pope, with a solemn attitude, places on the head of the king of the Romans an imperial crown, in the presence of dignitaries and prelates. There are no other indications, but perhaps amongst the dignitaries, there might also be an imaginary Marsilius of Padua.

Imaginary, moreover, as is the whole scene represented there. Ludwig the Bavarian was crowned not by the pope but by the representatives of the "Roman people," to be more precise, of all people, by Sciarra Colonna, in January 1328; the only pope who could have crowned him would have been in fact the "anti-pope" Nicholas V, "ydolum in ecclesia,"¹ Peter of Corbara. But he would be made pope by the emperor and acclaimed by the Romans only the following May—not before the deposition of the pope from Avignon, John XXII, of course, which again was the emperor's doing.²

Marsilius knew very well that the papal coronation was not necessary for the emperor's full legitimacy. He clearly says so in the *Defensor pacis*, and he attempts to prove so on a historical basis in the

¹ As Clement VI will recall in the *collatio* edited by H.S. Offler, "A Political 'Collatio' of Pope Clement VI, O.S.B.," *Revue Bénédictine* 65 (1955), 134, now in *Church and Crown in the Fourteenth Century: Studies in European History and Political Thought*, ed. A.I. Doyle (Aldershot, 2000).

² In any case, the antipope will re-crown Ludwig. Peter of Corbara renounced quickly the title of pope, asking forgiveness from John XXII.

De translatione Imperii. He also makes clear the imperial responsibilities towards the Church in his major work, which shall, moreover, be repeated in the *Defensor minor*. However, Marsilius' role in the emperor's descent to Rome, which was anything but decisive, could have been particularly important, and the political ideas of the *Defensor pacis* at that stage could have influenced the political agenda of the Bavarian.³

In any case, the *Defensor pacis*, finished in 1324, is the watershed of the life and works of Marsilius, as other chapters in this book show. Here, we shall only underline in what way the later Marsilian works maintain a continued relation to that work. As we shall see, both the *De translatione Imperii* and the *Defensor minor* abundantly quote the main work and refer to it at strategic points of their argumentation, creating at times a sense of an almost hyper-textual reading. References to arguments already expressed, to guiding ideas, and to sources previously discussed, enable Marsilius to draw further conclusions about particular themes, or to give some elements precision in their conceptualization, presented through the changes of the historical context in which he finds himself. There is a strong connection between the *Defensor pacis* and the following works, which goes beyond the question of their coherence but rather suggests the idea of a project both in action and in thought, enabling him to be more precise, to shape and fructify his own works.

It is naturally a different matter when one turns to those works which, being few in number and at times of dubious attribution, precede the *Defensor pacis*. Of the sophisms about universals, *Caius est universale* and *Omne factum habet principium*, only the latter has been

³ The reference *ad solemnitatem* to the papal coronation of the *De translatione Imperii* is suggestively seen by Carlo Dolcini, "Marsilio e Ockham: Il diploma imperiale *Gloriosus Deus*, la *Memoria politica Quoniam Scriptura*, il *Defensor minor*," in *Crisi di poteri e politologia in crisi: Da Sinibaldo Fieschi a Guglielmo d'Ockham* (Bologna, 1988), pp. 291–426, as the only possible correspondence between Ludwig's adventures and Marsilius' works. A similar reference is to be found in *Defensor pacis* II.xxx.6–8. On Marsilius' role, see also H.S. Offler, "Meinungsverschiedenheiten am Hof Ludwigs der Bayern in Herbst 1331," *Deutsches Archiv* 11 (1954), 191–206. Underlining Marsilius' political role as well as John of Jandun's, judging by the importance of the positions given to them by Ludwig in Italy, see Frank Gotthardt, "The Philosopher as Political Actor—Marsilius of Padua at the Court of Ludwig the Bavarian: The Sources Revisited," in *The World of Marsilius of Padua*, ed. Gerson Moreno-Riaño (Turnhout, 2006), pp. 29–46.

attributed with some degree of certainty to Marsilius.⁴ The attribution is interesting because the reduction of universals to only two, in virtue of the implications regarding the question of the plurality of the forms, puts Marsilius' position close to John of Jandun's.⁵

It is these fragments, dating from before the turning-point which is Marsilius' major work,⁶ which have been expected to illuminate us about the exact contours of his education and relation with the Parisian academic circles. It would thus have been illuminated if he indeed been the author of the *Parvi flores*—an anthology of Aristotelian sentences which had a very important role in circulating Aristotle's ideas or at least his language in the fourteenth and fifteenth centuries, at least at a basic level. However, the hypothetical attribution is not valid, and the author of the anthology has been identified as Johannes de Fonte.⁷

The debate about the *Quaestiones super metaphysice libros I–VI* has been, in contrast, far more complex.⁸ The attribution to Marsilius is reported by an annotation in the manuscript. However, the manner of presenting the questions has a strong correspondence to the analogous commentary by John of Jandun. Moreover, given the nature of the text, seemingly in “note-format,” which locates the work within the

⁴ Thanks to Roberto Lambertini, “The ‘Sophismata’ Attributed to Marsilius of Padua,” in *Sophism in Medieval Logic and Grammar*, ed. S. Read (Dordrecht, 1993), pp. 86–102. The first sophism is found in Vatican City, Biblioteca Apostolica Vaticana, Vat. lat. 6768, the second is transmitted by MS D. III. 19 (445) of the Biblioteca Comunale di Mantua.

⁵ So much so that Lambertini, “‘Sophismata,’” p. 101 can claim that “in metaphysics and semantics, as in political struggle, Marsilius of Padua and John of Jandun shared the same ideals.”

⁶ To which, we may add for the sake of completion, the *Quaestiones super librum de anima* (Cod. 1625 from the library of the university of Bologna), whose authorship does not seem attributable to Marsilius. Cf. Mario Grignaschi, “L’ideologia marsiliana si spiega con l’adesione dell’autore all’uno o all’altro dei grandi sistemi filosofici dell’inizio del Trecento?” *Medioevo* 5 (1979), 201–22.

⁷ Jacqueline Hamesse, “Marsile de Padoue peut-il être considéré comme l’auteur des ‘Parvi flores’?” *Medioevo* 6 (1980), 491–99; and “Johannes de Fonte, compilateur des ‘Parvi flores’?” *Archivum Franciscanum Historicum* 88 (1995), 515–31.

⁸ Preserved in the codex Fesulano 161, of the Biblioteca Laurenziana in Florence. Editions of some of the questions are to be found in the following publications: Piero di Vona, “L’ontologia di Marsilio da Padova nelle *Questiones I–II super IV librum Metaphysicae*,” *Atti dell’Accademia di Scienze Morali e Politiche* 79 (1978), 251–81; Jeannine Quillet, “Aristotélisme de Marsile de Padoue et ses rapports avec l’averroïsme,” *Medioevo* 5 (1979), 126–42; Roberto Lambertini and A. Tabarroni, “Le *Quaestiones super metaphysicam* attribuite a Giovanni di Jandun: Osservazioni e problemi,” *Medioevo* 10 (1984), 70–93. See also H. Riedlinger, “Note sur des *Questions sur la Métaphysique* attribuées à Marsile de Padoue,” *Bulletin de la Siepm* 4 (1962), 136–37.

context of a university lesson, further hypotheses have been advanced; some have even thought that Marsilius could have read out John's commentary during his lessons. This would attest, yet again, to the intellectual closeness of the two authors, but would certainly not suffice to establish a precise attribution. In any case, these points are too little to go by in order to determine Marsilius' own academic context, from which the *Defensor pacis* would have sprung.⁹ Neither would the relation with political Averroism, through John of Jandun, be illuminated in a decisive manner by this group of *quaestiones*.¹⁰

HISTORY, IDEOLOGY, AND POLITICAL THEORY: THE *DE TRANSLATIONE IMPERII*

Towards the end of the last chapter of the second Dictio of the *Defensor pacis*, precisely when Marsilius tackles the theme of the historical transfer of the empire from the Greeks to the Germans and the role played by the pontiffs, he announces work on a further treatise.

⁹ The fullest treatment of this document is in Lambertini and Tabarroni, "*Le Quaestiones super metaphysicam* attribuite a Giovanni di Jandun," who do not reject the possibility of Marsilius having a role in this work, concluding: "One element seems in any case to remain secure, even if we suspend the discussion, awaiting new facts for its verification: whichever hypothesis should turn out to be the winning one, Marsilius of Padua would be assigned a role in the transmission of these *Quaestiones* in which it would be difficult to perceive an autonomous theoretical contribution. Apart from the possibility of new discoveries, not even one of these texts could be reconsidered as a source for an independent view coming from the author of the *Defensor pacis*," p. 64.

¹⁰ See, however, the work of Ludwig Schmugge, *Johannes von Jandun (1285/89–1328): Untersuchungen zur Biographie und Sozialtheorie eines lateinischen Averroisten* (Stuttgart, 1966), especially pp. 95–119, where the *Quaestiones*, which Schmugge attributes to Marsilius, are compared to those by John of Jandun and are in a certain way made to interact with some of the ideas of the *Defensor pacis*, so as to insist upon the closeness between the Paduan thinker and the French philosopher; see also, Jeannine Quillet, "Brèves remarques sur les *Quaestiones super metaphysice*, libros I–VI (Codex Fesulano 161 f° 1r^a–41v^a) et leurs relations avec l'Aristotelisme hétérodoxe," *Miscellanea Mediaevalia* 10 (1976), 361–85. On Marsilius and Jandun, and on Marsilius' having gone beyond a certain political Averroism, cf. also Carlo Dolcini, "Aspetti del pensiero politico in età avignonese: dalla teocrazia ad un nuovo concetto di sovranità," in *Aspetti culturali della società italiana* (Todi, 1981), pp. 128–74, now in *Crisi di poteri e politologia in crisi*, pp. 223–41. For some considerations presenting a different view about "political averroism," see Mario Grignaschi, "Indagine sui passi del 'Comento' suscettibili di avere promosso la formazione di un averroismo politico," *Atti dei Convegni Lincei* 40 (Rome, 1979), pp. 237–78, now in *Il pensiero politico del basso medioevo*, ed. Carlo Dolcini (Bologna, 1983), pp. 273–312; and Gregorio Piaia, "Averroïsme politique: Anatomie d'un mythe historiographique," in *Orientalische Kultur und Europäisches Mittelalter*, ed. A. Zimmermann (Berlin, 1985), pp. 288–300, now translated into Italian in Piaia, *Marsilio e dintorni* (Padua, 1999), pp. 79–103.

The new work, which is thus added ideally to the imposing *dossier* of Marsilius' major work, should describe the actual ways in which the empire passed from one nation to another.¹¹

The way the transfer of the empire was carried out from the Romans to the Greeks, then to the Franks and finally to the Germans, still represented a raw nerve in political discourse. With that transfer, on the one hand, the power of the pontiffs was at stake: at least from Innocent III's *Venerabilem* decree¹² onwards, the historical passing over of the imperial power "from East to West" had been interpreted as the manifestation of papal responsibility over the empire and as the right to dispose of it for the good of the Church. On the other hand, the transfer was the measure for gauging the actual consistency and autonomy of the imperial power, as well as the ideal and juridical continuity of the empire from the Romans to the Germans.¹³

This theme is, moreover, inextricably connected both to the question of the validity of Constantine's donation—which provided an important juridical and historical basis for the representation which the Roman Church gave of its relation to the empire and other Christian monarchies—and to the possibility that popes could depose secular rulers. Therefore, though the battle was essentially juridical, it could also be deployed on the battlefields of historical narration.

Furthermore, by announcing his wish to write a treatise about what had happened *de facto* in the transfer of the empire, Marsilius feels the need to settle the effective weight of events, though, as we shall see, his reading of them depends on his own philosophical and political conceptions. Putting himself on such ground, Marsilius widens the range of his interests, calibrating the argumentative structure also with an eye to history. Political discourse, beyond the analysis of scriptural and juridical authorities as well as those coming from philosophical *rationes*, was naturally involved in the explanation of historical facts which often provided a further basis for those reasons and authorities.

¹¹ Marsilius of Padua, *Defensor pacis*, ed. Richard Scholz, 2 vols, Monumenta Germaniae Historiae, Fontes iuris Germanici antiqui in usum scholarum seperatim editi 7 (Hanover, 1932–33), II.xxx.7: "...de hac enim translacione, quantum de facto processerit, dicturi sumus in altero quodam ab hoc tractatum seorsum."

¹² *Decret.* I, VI, c. XXXIV "Venerabilem," cols 79–82.

¹³ An excellent introduction to this theme still remains the classic work by Werner Goez, *Translatio Imperii: Ein Beitrag zur Geschichte des Geschichtedenkens und der politischen Theorien in Mittelalter und in der frühen Neuzeit* (Tübingen, 1958).

In the description of Pope Leo crowning Charlemagne, or of the donation by Constantine of the western provinces and the imperial insignia to Pope Sylvester, as indeed also in the case of the “fact” of the deposition of a king by a supreme pontiff—as Pope Zachariah had been said to have done with Childeric, the “rex inutilis”—the “fact” of the transfer of the empire could take on the status of historical proof of the superiority of the pope “in temporalibus,” and it most certainly provided an excellent argument for pro-papal rhetoric. When Marsilius writes the passage we have referred to from the *Defensor pacis*, he is well aware, for example, of a famous document by Pope John XXII, from 1323, violently attacking Ludwig the Bavarian. In it, the pope recalls that it had been the “Apostolic See” which had transferred the empire to Charlemagne by virtue of a pontifical responsibility which is still operative¹⁴ and which does not recognize Ludwig as the legitimate emperor.¹⁵ In that document, the pope did not hesitate to de-legitimize the emperor, appealing to his own power over the empire, which the antecedent case of Charlemagne made clear to everyone.

But one is also reminded of the derisive words spoken by another pontiff, Boniface VIII, who—a generation earlier, talking with ambassadors of the king of France, in a dramatic speech which, in effect, ended the possibility of reaching a conciliation concerning another famous dispute, namely, with Philip IV—declared himself able to dismiss the king like a valet, “sicut unum garcionem.”¹⁶ Moreover, he added, everyone knows that “our predecessors have dethroned three kings of France,” and he concluded: “We find it written in our Chronicles and they find it written in theirs.”¹⁷

Thus, it was time to come to grips with the proofs provided by the historical narrations and by the force of historical facts. The problem was already clear to John Quidort of Paris in 1302, precisely in the years of the dispute between Boniface VIII and Philip the Fair. In the

¹⁴ *Iohannis XXII. Papae primus processus contra Ludewicum regem*, 8 October 1323, note 792, in MGH, *Constitutiones*, vol. 5, p. 616.

¹⁵ Marsilius is also well aware of another document, the decretal *De iureiurando Cic. Clementinae* 2, 9, un. *Romani*, cols 1147–49, in which the reference to the transfer is just as strong, and according to which the pontiff “a Graecis imperium transtulit in Germanos,” col. 1147.

¹⁶ Boniface’s speech, *Quod Deus coniunxit*, in Pierre Dupuy, *Histoire du différend d’entre le pape Boniface VIII et Philippes le Bel Roy de France* (Paris, 1655), pp. 77–79.

¹⁷ Dupuy, *Histoire du différend*, p. 79.

Tractatus de potestate regia et papali, to give a well-known and interesting example, John briefly analyzes the argument for Pope Zachariah's deposition of Childeric, king of the Franks, in favor of Pepin the Short—an operation which, moreover, a number of chronicles recognize as the prelude to the imperial coronation of Charlemagne. John shows with great clarity, quoting the *Glossa ordinaria* and the *Speculum historiale* by Vincent of Beauvais, that the texts do not, strictly speaking, talk of a deposition of the king by the pope but, more exactly, speak of an opinion given by the pope about who should depose the king—namely, the barons, who had asked for some sort of advice, once Childeric was only nominally king but was no longer capable of governing.¹⁸ It is the Gloss itself which correctly comments that, in this case, the claim that it is the pope who deposes the king means that he “consents to who deposes him.”¹⁹ Thus, this argument seems to be refuted on the very grounds of the historical and juridical dispute.

But what is more interesting for us now is John's methodological consideration, which he develops almost accidentally with respect to the analysis itself of the historical events: “It is not appropriate to assume argumentations from such singular facts...,” given that these come about on account of a number of factors and often “not from juridical obligation.”²⁰ The historical events, the facts, the narration of the events of history, cannot be considered as a solid basis for political theory. They do not have the immediately argumentative value which law, in contrast, possesses; they cannot have a normative role or be a model, lacking a strong epistemological status. That is to say, the pope may well have even deposed the king, which, however, according to John, he did not do, but this would not constitute in any case a juridical antecedent for other depositions. In announcing a specific treatise on the transfer of the empire, Marsilius seems intent on following a different path.

The *De translatione Imperii* is a brief treatise in 12 chapters. In accordance with the conventions of the genre, it goes through a brief history of the empire, paying particular attention to the moments of transfer

¹⁸ Johannes Quidort von Paris: *Über königliche und päpstliche Gewalt: De Regia potestate et papali*, ed. F. Bleienstein (Stuttgart, 1969), c. XIV.

¹⁹ Johannes Quidort von Paris, ed. F. Bleienstein, c. XIV; John quotes the *Glossa ordinaria decreti*, XV.3.6.

²⁰ Johannes Quidort von Paris, ed. F. Bleienstein, c. XIV. As often occurs, the historical sources used by John are quoted in Vincent of Beauvais, *Speculum historiale*, pp. 524–25.

of power from the Romans to the Greeks, from the latter to the Franks, and subsequently to the Germans.²¹ The model for the work is the brief *Tractatus de statu et mutatione imperii* by Landulphus Colonna, to which Marsilius turns with a strongly polemical tone and even with some contempt.²² Marsilius follows closely Colonna's reconstruction, often using it word for word. However, he modifies the sense of the reconstruction at salient points, almost as if to demonstrate his desire to correct the historical mistakes which he thinks he has identified through a more conscious usage of the sources.

In the first chapter, Marsilius immediately refers to the *Defensor pacis*, in which he claims he has already shown "secundum rationem seu de iure," according to reason and in conformity with the law, how one should and how one can establish a "Romani et cuilibet alterius principatus,"²³ and how its transfer may be carried out. Marsilius thus intends to place his brief treatise in the conceptual horizon of his major work, which constitutes its theoretical context. He considers it useful to gather within a brief work the "facts" regarding the imperial *translatio*, extracting them meticulously from the chronicles and historical collections, in sharp disagreement with the analogous work by the "Roman satrap," Landulphus Colonna.²⁴

²¹ The critical edition of the text is in Marsilius of Padua, *Oeuvres mineures: Defensor minor. De translatione Imperii*, ed. Jeannine Quillet and Colette Jeudy (Paris, 1979), pp. 374–472. An English translation is available of Marsilius' works in Marsilius of Padua, *Writings in the Empire: Defensor Minor and De translatione Imperii*, ed. Cary J. Nederman (Cambridge, 1993); as well as a Portuguese translation by José Antonio de C.R. de Souza, in *Veritas* 43 (1998), 707–23. A precise date for the work is impossible to give. The *terminus a quo* is naturally the intention to write it expressed by Marsilius in the *Defensor pacis*, completed in 1324.

²² The treatise is edited with the title *Tractatus de translatione Imperii* and with an erroneous date (1260) in Melchior Goldast, *Monarchia S. Romani Imperii* (Frankfurt, 1621, vol. 2, pp. 88–95, repr. Graz, 1960). The title which seems to be more correct is the one we can infer from the first lines of the work ("...de statu & mutatione Romani imperii..."). Our quotations refer to this edition. Other editions are in S. Schard, *De jurisdictione autoritate et praeminentia imperiali* (Bale, 1566); and partially in *Sylloge historico-politico-ecclesiastica* (Strasbourg, 1618).

²³ Marsilius of Padua, *De translatione Imperii*, p. 374.

²⁴ The date of Marsilius' work is presumably to be placed near to the completion of the *Defensor pacis* (1324), and by that date, therefore, he is acquainted with the work of Landulphus, which stimulates the writing of his treatise. Landulphus' treatise cannot be dated beyond 1324 and most certainly after 1317, the year of completion of one of his most important sources, *Historia ecclesiastica nova di Tolomeo da Lucca*, ed. L.A. Muratori, *Rerum Italicarum Scriptores*, t. 11 (Milan, 1727), cols 753–1242. About the context of the work and the hypotheses concerning dates, see Jürgen Miethke, *De potestate papae: Die päpstliche Amtskompetenz im Widerstreit der politischen*

Landulphus belongs to the so-called Gallic branch of the powerful Colonna family, canon at Chartres cathedral since the 1290s. A competent and active man, he not only fulfils his duties as canon at Chartres but also knows how to take care of his own affairs—traces of many sales contracts of land, vines, and estates remain—as well as those of the chapter. Versed in law, which he studied in Bologna, he is in close contact with the curia at Avignon.²⁵ Nothing here seems to justify Marsilius' epithet of "satrap," unless it is an ironic reference to the Donation of Constantine. The author of the *Defensor pacis*, wishing to underline Landulphus' pro-papal position and perhaps also his closeness to the curia and to John XXII,²⁶ extracts it from the pseudo-Isidorian version of the Donation, in which Constantine, before conceding to the pontiff dominion over Italy and the West—that is, before he committed the fundamental error about the relation between kingdom and priesthood—listens to the advice and the assent of, amongst others, his "satraps."²⁷ The latter term is also reported in the treatise *De origine et statu Romani imperii*,²⁸ perhaps attributable to Ptolemy of Lucca.

Theorie von Thomas von Aquin bis Wilhelm von Ockham (Tübingen, 2000), especially pp. 231–47.

²⁵ For a succinct biographical background on Landulphus Colonna, see M. Miglio, "Landolfo Colonna," in *Dizionario Biografico degli Italiani, Enciclopedia Italiana* (Rome, 1982), pp. 349–52; Fiorella Simoni Balis-Crema, "Landolfo Colonna," *Lexikon des Mittelalters* 3 (1986), 57; for an interesting survey of his presence in historiography from Renaissance times to the modern era, see Claudine Billot, "Landolfo Colonna, chanoine de Chartres de 1290 à 1329 et le premier humanisme: Essai d'historiographie," in *Monde médiéval et société chartraine*, ed. Jean-Robert Armogathe (Paris, 1997), pp. 301–07, which however contains a few inaccuracies regarding at least Giles Colonna. Apart from the wealth of textual and bibliographical references it contains, Giuseppe Billanovich's *La tradizione del testo di Livio e le origini dell'Umanesimo*, 1.1 (Padua, 1981), is indispensable in order to understand the fundamental role of Landulphus in the tradition of Livy's text and for his personal relations with Petrarch.

²⁶ It is to John XXII that Landulphus dedicates a *Tractatus brevis de pontificali officio*.

²⁷ *Decretales Pseudo-Isidorianae et capitula Augilarmni*, ed. P. Hirschius (Lipsia, 1863), p. 252.

²⁸ *Tractatus anonymus de origine ac translacione et statu Romani imperii*, ed. M. Kramer, MGH, *Fontes Iuris Germanici Antiqui* (Hanover, 1909), p. 66. The treatise could be a source for Marsilius and for Landulphus himself, as Kramer, the editor of the text, emphasizes. Noting that the work ends with an apostrophe made to the Prince-Electors, he suggests that the date of the work could be before an imperial election, perhaps in 1308. The author of the work could even be Ptolemy of Lucca, according to the suggestion of Goetz, *Translatio Imperii*, p. 218, and Schmutge, *Johannes von Jandun*. Seeing it differently, Carlo Pincin, *Marsilio* (Turin, 1967), p. 256, considers that the warning made to the princes of not falling into "scismatical errors" points to

It should be said that, in Landulphus' writing, there is no threatening tone like there is in other pro-papal writings, for example, in the *De origini et statu*, where the German Prince-Electors are severely reminded that the pontiff can dispose of the empire and transfer it "de gente in gentem" (from one nation to another) and that their right to vote is nothing but a concession made to them by the Roman Church.²⁹ On close inspection, Landulphus does not seem to hold a mistaken view when it comes to his sources; he does not hide the points of criticism against his own view and manifests a certain taste for the historical explanation of events.

We should not forget that Landulphus, in addition to his knowledge of law, harbors a clear interest for history. He wrote a *Breviarum historiarum* that is a mix of ancient, patristic, and medieval sources.³⁰ He read from 1303 onwards, as we know from the registrars of Chartres library, John of Salisbury's *Policraticus*, Boethius, Cicero's Catiline orations, and later the *Histories* by Orosius and Justinian's *Epitome*. Most of all, he nurtures a love for Livy, which he shares also with his nephew John and the young Petrarch, whom he gets to know at Avignon and with whom he will always be in contact. Thanks to Billanovich's research,³¹ it is well known that Landulphus had copies made of the Livy codex found in Chartres, which he perused at great length—and subsequently lost—adding to it also the works of Dictys of Crete and the *Epitome* of Florius which, it seems to me, is also the source of the first chapter of the *De statu et mutatione*.

the context of the election of the anti-pope Nicholas V in 1328. In this way, he reverses the relation between the sources: Marsilius would be the source for the *Tractatus*. But the treatise, by virtue of the pressure it attempts to put on the princes, could also pertain to earlier years, between 1323 and 1324, for example, when Ludwig's election is contested and the emperor threatens a council which itself would be schismatic and where the voters seem to play an important role. The possibility that the treatise is a source for Marsilius seems to me yet undecided.

²⁹ *Tractatus anonymus*, ed. Kramer, pp. 73–74: "...caveant ergo principes Alamanie vel maxime fideles Romane ecclesie, qui ius electionis huiusmodi ex sola concessione Romane ecclesie optinere noscuntur vel cuius iure nituntur, asserentes presenz occidentale imperium sic a solo Deo processisse sine ministerio Romani pontificis, quod in imperatorem electus non indiget nominatione, confirmatione, coronacione seu qualibet approbacione sacrosancte Romane ecclesie prelibate, que de imperio, vere dici non possunt..."

³⁰ Billanovich, *La tradizione*, p. 129, who also gives indications about the manuscripts, defining this work as opaque but proud, underlining the vast historical culture of Colonna.

³¹ To which we may add a further pioneering work, by U. Balzani, "Landolfo e Giovanni Colonna secondo un codice Bodleiano," *Archivio della Società romana di storia patria* 8 (1885), 223–44.

This historical interest is evident in the first chapter. Landulphus decides to tackle the question of the empire starting from the distinction between the history of Rome and the history of the Roman Empire, demonstrating an autonomous use of the sources, or at least a capacity to make the different material he touches upon appear to be coherent. For example, he draws on the *Chronicle* by Martin Polonus,³² who, in turn, looks to Augustine and Orosius, naming Homer, the end of Troy, and the adventures of Aeneas, which in Martin, however, are always anchored to the biblical stories, in his search for chronological reference-points to frame a universal history of Christian rule.³³ Landulphus takes Martin as an inspiration, and also Vincent of Beauvais, but he quotes more directly the adventures of Aeneas, underlining, like Dante, that the seeds of Aeneas generated the plant of Rome that “in arborem excellentissimas crescens, per vniversa mundi climata ramos suae viriditatis extendit.”³⁴ Also the submission of the other nations to Rome is put down not to violence³⁵ but to the voluntary recognition of the civil superiority of the Romans and to the unanimous assistance of virtue and fortune: “Totque laboribus, tot periculis, fortunaqua varia iactauts est vt constiteundo eivs Imperius, contendisse simul Romana virtus & fortuna videantur.”³⁶ Marsilius refers to virtue and fortune as well, and to see them associated in this context produces a certain effect. They must be an allusion, if not a precise textual reference, which Landulphus is making to Florius³⁷—the historian who had made a compendium of Livy and with whom Colonna is so well acquainted

³² *Martini Oppaviensis Chronicon Pontificum et Imperatorem*, ed. L. Weiland, MGH, Series Scriptores, 22 (Hanover, 1872), pp. 397–474. The Dominican’s intent is to trace a parallel chronicle of the emperors and the pontiffs, following an explicit dualist approach which he justifies with the classic argumentations about the two swords, about the two “illuminations,” and about the analogy between earthly and celestial hierarchy.

³³ For example, the sons of Aeneas live in the times of the prophet Gad and under the rule of David; *Martini Oppaviensis Chronicon Pontificum et Imperatorem*, ed. Weiland, p. 398.

³⁴ Landulfus Colonna, *Tractatus de translatione Imperii*, p. 89.

³⁵ One thinks here also of John of Paris, *Tractatus de potestate regia et papali*, c. XXI, for whom the theme of the violent subjugation of the Romans constitutes a historical motivation on behalf of the submitted nations to free themselves from the chains of the empire.

³⁶ Landulfus Colonna, *Tractatus de translatione Imperii*, p. 89.

³⁷ On the presence of Florius in Marsilius’ prologue, see László Havas, “Zur quellenfrage bei Florius und Marsilius Patavinus,” *Acta antiqua Academiae scientiarum Hungaricae* 37 (1996–1997), 115–16.

that he wishes to take him with him for his last trip to Rome in 1330, being, by then, in his eighties.

Furthermore, in Landulphus, there is no markedly providential vision of imperial Rome, as in the chronicle of Ptolemy of Lucca on which Landulphus depends in other respects.³⁸ I would say that it is Landulphus' interest in history which prompts him to deepen, however briefly, in the spirit of the compendium, the political motivations which determine certain events. In this manner, the canon from Chartres devotes a few lines, which Marsilius is not interested in reporting, to the doctrinal issues that divide the Roman Church and the last eastern kings, namely, the problem of the veneration of images. This is not "idolatry," as Landulphus explains, but "latria," i.e., a legal cult, because the images enable us to direct the intellect towards he whom the images represent whilst, for themselves, they are certainly not objects of veneration.³⁹ Landulphus explains here the religious, concrete reasons which play the historical role of a preamble to the decision to transfer the empire from the East, where it was ruled by emperors who are no longer in harmony with catholic conceptions, to the West. He shows how the *translatio* from the Greeks to the Franks had been prepared by a series of events which created an ever-growing distance between Byzantium and the Roman Church and which was not the result of a sudden choice of one pontiff but the culmination of the force of events prolonged through time.⁴⁰

³⁸ The first chapter of the *Historia ecclesiastica*, col. 759, throws in, once again, the idea of Augustus' peace almost as an image of the peace Christ brought down again between God and men.

³⁹ Landulfus Colonna, *Tractatus de translatione Imperii*, p. 91: "Gregorius vero tertio, qui tunc Romanae Ecclesiae praesidebat, cum catholici affirmabat, Christi & Sanctorum imagines venerandas, & cum veneratione colendas. Imago enim fert intellectum humanum in illum, cuius imago foris dignoscitur, intusque latet. Imploramus enim illius auxilium, cuius est imago, ac debita veneratione recolimus, & imaginem ipsius imaginatio reddimus. Nec est eadem ratio de imaginibus & sculptilibus idolorum, quia idolis Spiritus malignus iungebatur, qui in ipsis deceptorie respondebat, & ideo his nulla reuerentia debetur. Et ideo veneratio imaginum non idolatria, sed latria, id est, diuinus cultum dicit potest proprie."

⁴⁰ A similar version in the treatise *De origine ac translatione et statu Romani imperii*, for which "Stephanus papa II, qui tunc Romane praesidebat ecclesie, ordinavit imperium de Grecis in Francos transferre vivente tunc Pipino, non autem hanc translationem realiter perfecit..." p. 60. The canonical reference is then to Alius, c. 3., C. XV, qu. 6. Martin Polonus is not as interested in the relation between Pepin's coronation and the passage of the empire.

Marsilius, who copies the same story, prefers to underline that Pope Gregory III, excommunicating the emperor of the East after the episode of the veneration of the images, takes away from him, leaving him with no rights whatsoever—"nescio tamen auctoritate, sed bene quia temeritate"⁴¹—to control over most of Italy. The religious motivation is thus left in the shadows, though reported, with the intent of making manifest the non-juridical aspect of the pope's choice.

In addition, regarding the episode of the deposition of Childeric, with the subsequent dynastic passage of the reign to Pepin, Landulphus does not hesitate to quote sources which are potentially critical to his own view, namely, the *Glossa*, as did John of Paris. This text emphasizes that the pope had agreed to the deposition and did not depose Childeric directly. Landulphus also cites the *Storia* by Aimoin of Fleury, who reports the opinion that the new king was legitimately elevated to the rank of a ruler and crowned by Boniface, archbishop of Magonza.⁴² Despite the different interpretations, Landulphus nevertheless claims that "salva semper in omnibus veritate," the authority of the pope played the main role.⁴³

For his part, Marsilius keeps the same references to Aimoin and the *Glossa* but denies any papal intervention whatsoever. The point here for Marsilius is important because he seems to find a historical confirmation of what the *Defensor pacis* had established from the point of view of law and reason, as he himself declares at the beginning of the *De translatione Imperii*. A look back at his major work is enough to give a different perspective to the events concerning Childeric and Pepin:

⁴¹ Marsilius of Padua, *De translatione Imperii*, p. 398.

⁴² Aimoin of Fleury, *Historia Francorum libri quinque*, in PL 139, cols 627–798. Landulphus also refers to Richard of Cluny, *Cronicon*, ed. Martène, in *Veterum scriptorum et monumentorum historicorum, dogmaticorum, moralium amplissima collectio*, t. 5, pp. 1160–73.

⁴³ Landulfus Colonna, *Tractatus de translatione Imperii*, p. 91: "...credo auctoritatem Papae in talibus omnibus negociis praesupponi, ex eo quod omnis potestas ex eo in hoc dependet, vt Papam Gelasium Imperatori Anastasio legimus rescripisse..." An additional source of Landulphus' also quotes the role of the pontiff, in addition to that of the princes, cf. *Sicardi episcopi Cremonensis Cronica*, ed. O. Holder-Egger, MGH, S.S., XXXI, 1 (Hanover, 1902), p. 152. It should be noted, however, that the comprehensive judgment on this episode expressed by Landulphus, including the construction of the analysis of the sources, is already in Ptolemy of Lucca, *Historia ecclesiastica nova*, Book XIX, in particular cols 972–73.

The deposition of a king and institution of another in his place, carried out for a reasonable motive, is not the exclusive concern of a bishop or other minister or member of their college, but concerns the generality of the population of a region, of the citizens and noblemen or of the prevalent part of them, in the ways we have rationally demonstrated in chapters 12, 13, 15 and 18 of the first part of our *Defensor pacis*.⁴⁴

Taking as a starting point what Aimoin had written, Marsilius finds support for his demonstrations which, at this point, serve as further confirmation of the historical facts, disavowing as impossible alternative hypotheses: "Aimoin's story is thus to be taken as true and the clergymen's version must be rejected on this point, being prejudiced to the Franks, and false."⁴⁵

Another interesting point of comparison, it seems to me, between Landulphus and Marsilius is related to the rise of schismatic and heretical movements and to the general sense of the changes in the empire. For though the two works are almost identical in structure and Marsilius merely reports quasi-verbatim Landulphus' arguments, they make two different impressions on the reader. Landulphus seems to emphasize, when it comes to the historically most important nodal points, a reciprocal responsibility of the Roman Church, on the one side, and of the empire and kingdoms, on the other. Constantine, for example, bestowed on the prelates, who before him were called "Roman clerics" and after him "Cardinals," an honor which they in fact already had by virtue of their role.⁴⁶ Constantine thus makes it possible to adjust the title and honor of the clerics to their actual function within the Christian empire.

But it is enough that Marsilius, who repeated Landulphus' text in an almost identical form, adds: "Whether this was done in a convenient

⁴⁴ Marsilius of Padua, *De translatione Imperii*, p. 402: "Nam talis depositio regis et alterius institutio, propter rationabilem causam, non tantummodo ad episcopum aut clericum aliquem aut ipsorum collegium pertinet, sed ad universitatem inhabitantium regionem, civium et nobilium vel ipsorum valentiorum multitudinem, quemadmodum in nostro Defensore pacis per demonstrationem ostendimus 12° 13° 15° et 18° primae dictionis."

⁴⁵ Marsilius of Padua, *De translatione Imperii*, p. 402: "Unde Admonii recipiendus est sermo tamquam verus, clericorum vero scriptura in hoc reiicienda, tamquam Franciscus preiudicialis et fals..."

⁴⁶ Landulfus Colonna, *Tractatus de translatione Imperii*, p. 89: "Quantum ad decorem & dignitatem tituloso non habebant: sed quantum ad onus, videlicet quantum ad officium praedicandi, martyres sepeliendi, baptizandi, poenitentias iniungendi, intituli errant."

manner will be understood by reading our *Defensor pacis*.⁴⁷ Naturally, the historical fact is not disputed, but the interpretation goes in the opposite direction. That which seems to Landulphus a sign of Constantine's responsibility seems to Marsilius the first great error in the relations between ruler and clergy. The difference between the two works thus depends on truly different historical visions of this relation.

For Landulphus, the Church, at all critical moments, has done its duty with regard to the Christian community. It withdrew control over Italy from the emperor of the East because he "did not help the Church, but rather was a menace to it as a heretic"; the Church had favored the coronation of Pepin, because Childeric was not capable of ruling, he was a *rex inutilis*. The Church, with Pope Stephen II, had decided to transfer the empire to the West, after having diligently analyzed the benefits which would follow. It crowned Charlemagne as emperor, validly transferring the empire without contestation;⁴⁸ it had then shifted the empire to the Ottonians, which it had been forced to do because the last emperor of the dynasty of Charlemagne, Arnulf, had been a man "effoeminatus et vilis," incapable of assuming the role of defending his own kingdom and the Church, which he actually persecuted.⁴⁹ The sense of all these events is very clear to Landulphus.⁵⁰ In faltering in virtue and devotion to the Church of Rome, it is the empire which falters.

The *translatio* is thus the story of the responsibility of the Church, in the face of the Christian people, to safeguard of the role of the Roman empire, which coincides with command over the city of Rome but with ruling over Christian society. There is no providential vision, except for a very particular sense of the term. It is rather the function of the empire which is underlined, as far as it can and must be transmitted from one nation to another. Such is the lesson of history which follows the tribulations of the virtue and capabilities, of which the Church is the judge, to rule the Christian people.⁵¹

⁴⁷ Marsilius of Padua, *De translatione Imperii*, p. 384.

⁴⁸ Landulfus Colonna, *Tractatus de translatione Imperii*, p. 92.

⁴⁹ Landulfus Colonna, *Tractatus de translatione Imperii*, p. 94.

⁵⁰ Landulfus Colonna, *Tractatus de translatione Imperii*, p. 94: "...nec defecisset... monarchia Imperii, nisi virtus & devotio erga sanctam Romanam ecclesia defecisset. Sed virtute ac devotione deficiente, defecit Imperium."

⁵¹ Thus, he alone who carries out this function is legitimately emperor, and for this reason, the empire of Byzantium cannot be properly considered to be an empire. Landulphus Colonna, *Tractatus de translatione Imperii*, p. 95: "Nec est Imperium iam

In contrast, Marsilius reads the series of events essentially through a political lens. First, Constantine's donation appears to him as a wound inflicted on the integrity of the empire, but also as a dangerous metamorphosis of the Church, with the Roman clergy rising to a senatorial dignity which originally does not belong to it and remains alien to its nature and mission. Naturally, Marsilius does not deny the historicity of the act, nor does he do so for other moments of change in the empire, which result in the passing of imperial power "in Germanos." That episode, however, remains a model of the Roman Church's attempt to arrogate to itself powers which did not belong to it. In a certain manner, Marsilius introduces, in the *De translatione Imperii*, a dialectic between the weakening of the empire and the distortion of the religious message.

In this sense, the relationship between religion and imperial power as it was described by Landulphus is turned upside down. For Marsilius, the faltering of the empire is accompanied by the faltering of the correct form of religion. The Donation perverts the structure and the nature of the Church of Rome. But also the defeat of the empire in the East, as a consequence of the tyranny of the emperor Heraclius, prompts the rise of schisms and heresies. There is a link between the rebellion of many oriental nations and the Greeks' attempt to separate themselves from the Roman Church, which Landulphus had already emphasized on the basis of his historical sources. The yielding of the empire leads to a consolidation of Nestorianism, Arianism, and the Ebi-onites; and, most of all, it leads to the creation of a new "sect," founded by Mahomet, which seems to have an exclusively political role.⁵²

For Marsilius, in the wake of Martin Polonus, Vincent of Beauvais, and Ptolemy of Lucca, Mahomet is versed in the magical arts, capable of seducing nations with his promises "about things to come" and the slackening of customs, simulating prophetic powers and supernatural talents. However, Marsilius adds to this traditional description an

modo apud Graecos, licet largo vocabulo Imperator vocetur, de Maior. c. Solite. Sed nec regimen, nec Imperium habere possunt; nunc precipue, ex quo extra gremium sanctae matris Ecclesiae positi sunt, vt 24.q. sic. Illud."

⁵² Marsilius of Padua, *De translatione Imperii*, p. 388: "Ut talis esset rebellio duratura, schismata induxerunt in sectam, ut non solum ab Imperio, sed etiam a Christianismo recederent, accipientes etiam communia quaedam legi Moysi et Evangelice, ut patet in Alchorano."

emphasis on Mahomet's "prudence," i.e., his political ability and his understanding of the political function of religion.⁵³

Also in the episode of the transfer from the Greeks to the Romans, it is not so much the theological problem of the veneration of the images which is emphasized. For Landulphus, this represented the essence of the pontifical decision to hand the empire over to the Franks, or at least the trigger for the necessity to do so. Rather, for Marsilius, it is the Roman Church's political calculation which is the real motivation of the transfer throughout its various stages. Gregory III removes control of Italy and the West from the emperor, taking a daring political initiative, outside of his pontifical authority. And subsequently, Stephen II makes the decision "cum suis complicitibus," without being able to carry it through, of transferring the empire, keeping an eye out for a moment of particular imperial weakness,⁵⁴ with a solely political intent, namely, that of "dominating Italy more freely," once the Greeks have been weakened and the Gauls distracted. His successor, Hadrian, grants patricianship to Charles, "enticed by the temporary benefits" which he would thereby receive. Leo III, the pope who crowned Charlemagne, is also looked on with scorn by Marsilius.

The "veridical chronicles," as Landulphus calls them, tell in effect of how Pope Leo, having been accused of great crimes, had been assailed in the city of Rome, his eyes pulled out, his tongue torn off. Having been arrested, he managed to escape and save himself, asking Charles, who was not yet emperor, for help. When he was later recognized as innocent, by divine intervention, the organs he had lost, his eyes and his tongue, were reinstated, as the *Historiae* narrate, and "who wants to believe it, let him believe it,"⁵⁵ Marsilius adds.

⁵³ Marsilius of Padua, *De translatione Imperii*, p. 392: "Hic Mahometus magicis artibus instructus, ut fertur, sua tamen ut credo prudentia verius praetextu contemptus Imperii persuadet eisdem de modo vivendi ad suum, ad augendum dominium populumque multipliciter sui arte deludit et avertit a fide, asserens ipsos principatum tenere non posse, nisi a christiana fide diverterent et sua documenta servarent..."

⁵⁴ Here Marsilius twists the meaning of Landulphus' words. Colonna had written: "Quae beneficia Papa diligenter attendens, ordinavit translationem Romani imperii fieri de Graecis in Francos," *Tractatus de translatione Imperii*, p. 92. Marsilius of Padua, *De translatione Imperii*, p. 406 comments: "Hiis autem beneficiis Stephanus praedictus papa allectus et attendens imperatoris temporis illius imbecillitatem, cum suis complicitibus procuravit Romanum Imperium transferri de Graecis in Francos..." The task of analyzing the general benefits of the transfer is turned into the task of awaiting for the appropriate moment in order to give stability to the one's own benefits.

⁵⁵ Marsilius of Padua, *De translatione Imperii*, p. 414.

However, the transfer to the Franks is valid. Marsilius makes a point of emphasizing an element which Landulphus had also noted and which is reported by the majority of the chronicles, thus giving an apparent historical foundation to Marsilius' judgment, namely, the role of the Roman people. If indeed it is true that the pope placed the crown upon Charles' head, it is also true that the act was accompanied by the acclaim of the Roman people.⁵⁶ The efficient power of the transfer is thus in the first place attributable to the action of the Roman people.⁵⁷

The Roman people are also present in the passing of the empire from the Franks to the Germans. For Landulphus, Pope Hadrian, in the presence of the clergy and the people, had made the German Otto I emperor of the Romans. Marsilius, in contrast, underlines the collective action of the people, clergy, and pope who, together, create the emperor.⁵⁸ Subsequently, with the decline of the dynasty of the Ottonians, it was established⁵⁹ that, through a process of seven Prince-Electors, the most worthy person to receive imperial power would be chosen. It is not necessary, as Marsilius underlines in the last chapter of the treatise, that the emperor be crowned by a bishop, given that on all the occasions of transferring the empire, the pontiff had a marginal and accessory role.

Such are the facts, as they are told and commented on by Marsilius in a brief comparison with Landulphus. But what of the substance of the work? Landulphus Colonna had written a "compendium" of the history of the empire, which avoided the "the tediousness of a too lengthy discussion," but he did not forfeit analysis of the facts. In this way, he had succeeded, at times with some elegance, in imposing some order onto the sources and showing how, on certain points, there were discordant interpretations. He thus showed a real historical

⁵⁶ Marsilius of Padua, *De translatione Imperii*, p. 420: "...coronam imperialem capiti eius imposuit, et a cuncto Romano populo acclamatum est."

⁵⁷ The acclamation of the Roman people is referred to also by John of Paris, *Tractatus de potestate regia et papali*, c. XV, who speaks of "populo acclamante et faciente" and also uses the expression "populus facit regem et exercitus imperatorem."

⁵⁸ Martin Polonus, *Chronicle*, p. 465, whom Marsilius follows without going through Landulphus, declares that Otto "[...]a papa et a clero et a populo Urbis honorifice est receptus et in imperatorem coronatus..."

⁵⁹ For Landulfus Colonna, *Tractatus de translatione Imperii*, p. 95, and for the *De origine ac translatione et statu Romani imperii*, p. 72, it was established by Gregory V, while Martin Polonus *Chronicle*, p. 466, like Marsilius, does not specify by whom the new modalities for choosing an emperor were established.

interest, without relinquishing his pro-papal position; on the contrary, he rendered it more explicit. Marsilius worked on this text without changing its structure and without in effect broadening the basic historical material, correcting Landulphus' interpretations, adding some comments, and, in certain cases, reviewing the sources as well.

However, with a few references to the *Defensor pacis* placed at strategic points of the argument, Marsilius redirects the treatise, with all the material contained in it and provided by Landulphus, into the internal frame of his own major work. Some sensitive points, some "facts," from the whole historical report concerning the transfer of the empire are, in this manner, re-contextualized and re-read in the light of the political theory of Marsilius, such as the Donation of Constantine, whose historicity is not argued but whose right timing and appropriateness is seen "*ex nostro Defensore pacis*."⁶⁰ This mere reference already discloses, so to speak, the Marsilian project of the *De translatione Imperii*. For indeed the Donation, it seems to me, enjoys a double status in the major work. On the one hand, it constitutes the first manifestation of the pernicious metamorphosis of the Roman Church and the beginning of the papal pretentions.⁶¹ On the other hand, Constantine's intervention also shows how, in virtue of such a human act, the temporal powers of the popes arose;⁶² in this way, they lose their divine prerogative.⁶³ Constantine's devotion is thus read

⁶⁰ Marsilius of Padua, *De translatione Imperii*, p. 384.

⁶¹ For example in Marsilius of Padua, *Defensor pacis* I.xix.8, the Roman bishops bestow on themselves juridical power with regards to the civil government: "...huius quamvis secundum veritatem dominii seu coactive iurisdictionis in hunc principem expressio singularis faciem et exordium primum sumpsisse videatur ex quodam edicto et dono, quod quidam dicunt per Constantinum fuisse factum beato Silvestro Romano pontifici." It has seemed to some, e.g., Cesare Vasoli, in *Marsilio da Padova, Il difensore della pace* (Turin, 1975), p. 247, note 16, that the quoted text could shed doubts, by virtue of the expression "some say," on the historicity of the Donation. In *Defensor pacis* II.xviii.7 and II.xxii.16–20, the Donation transforms the habit of the other churches to turn to the Roman Church for advice and help to a supremacy which represents the roots of the later papal pretentions.

⁶² For example, in Marsilius of Padua, *Defensor pacis* II.xviii.7; II.xxii.10 and 20; II.xxviii.19. It was the emperor's role to call forth the council and supervise over the faith; cf. *Defensor pacis* II.xviii.7.

⁶³ On the story of the dispute concerning the donation, see Mario Conetti, *L'origine del potere legittimo: spunti polemici contro la donazione di Costantino da Graziano a Lorenzo Valla* (Parma, 2004). The importance of the historicity of the donation in the structure of Marsilius' line of thought is shown by Francisco Bertelloni, "Marsilio de Padua y la historicidad de la 'Donatio Constantinii,'" in *Estudios en homenaje a don Claudio Sanchez Albornoz en sus 90 años*, vol. 4 (Buenos Aires, 1986), pp. 3–24; see also Francisco Bertelloni, "Acerca del lugar de los Griegos en la *translatio imperii*

on two levels. It is the cause of the Roman Church's constant quest for temporal supremacy, signaled by the clear-cut passage to almost senatorial dignity for the cardinals described in the *De translatione Imperii*. But it was also an example of how it had been in the hands of the emperor, the human governor, to transfer the empire. The Donation thus constitutes a point of tension, a conceptually flexible and ambivalent structure. In the *De translatione Imperii*, Marsilius does not untie the relational knot between the Donation and the following transfers of the empire, leaving open the ambivalence and almost the ambiguity of the argument. He is more interested in showing that the effective role of the pontiffs in the development of historical facts had not been essential.⁶⁴

In particular, the transfer "in Francos" has a special weight in this sense. I would say that Marsilius' answer in the *De translatione Imperii* comes in two stages. First, Marsilius re-locates the inaugural episode leading to the *translatio*, namely, the deposition of Childeric, within the perspective of the *Defensor pacis*. The description of Aimoin—who, as we saw, showed that Pope Zachariah simply consented to the barons' deposing the king—is truthful, since it confirms one of the leading principles of the first *Dictio* of the major work by Marsilius, namely, that it is the role of the generality of the inhabitants of a region, citizens and noblemen or of the *valentior* part of them,⁶⁵ to depose a king

segun Marsilio de Padua," *Anales de historia antugua y medieval* 23 (1985), 145–58. Quillet, Introduction to *De translatione Imperii*, rightly emphasizes the "lien fondateur" between *donatio* and *translatio* in papal political theory (in particular from the *Venerabilem* onwards), in Marsilius of Padua, *Oeuvres mineures*, p. 337; and see also her *La philosophie politique de Marsile de Padoue* (Paris, 1970), in particular pp. 238–67.

⁶⁴ Marsilius limits himself to reporting a different version of the extent of the Donation, restricted to Rome and some Italian provinces, which obviously does not weaken the juridical nature of the act. In so doing, Marsilius follows neither the canonical version of the Donation (*Decretum*, 96, 14, ed. Friedberg, col.) nor the juridical source which he usually favors, namely, the *Decretales Pseudo-Isidorianae*.

⁶⁵ We shall not even mention in what the nature of this *valentior pars* consists, a topic which has drawn the attention very early on of historians and which represents one the most typical conceptual instruments in the political reflections of Marsilius (and which did not escape the notice in the past of too hasty "democratic" or "anti-democratic" interpretations). On the mixed nature, both quantitative and qualitative, of the notion, see still Alan Gewirth, *Marsilius of Padua and Medieval Political Philosophy* (New York, 1951), in particular pp. 182–96. On the canonistic aspect of the notion, relative to the modality of election in the chapters, in addition to the many examples of Gewirth, see also Brian Tierney, *Foundations of the Conciliar Theory: The Contribution of the Medieval Canonists from Gratian to the Great Schism*, 2nd ed. (Leiden, 1998). On the communal origin of Marsilius' concepts, see Paolo Marangon,

and establish a new one in his place, and this "is demonstrated in chapters 12, 13, 15 and 18."⁶⁶ In this manner, we are led straight to the heart of Marsilian theory: the reasons and authorities which construct the political argumentation of Marsilius are able to explain the historical events when they occur legally, and even to discern amongst *Chronicae* and *Historiae* those which are accurate.

Having denied, therefore, that the pontiff could have deposed the king, Marsilius, as we have seen, denies that he had a truly efficient role in the conferring to Charlemagne of the dignity of emperor. For the people of Rome, by their acclaim, constitute the new emperor. This is the element which the *De translatione Imperii* provides in addition to the Marsilian theorization, and which brings us back to the passage of the *Defensor pacis* in which the minor work had been announced.

The pontiff, it was said there, could carry out such an act, by right, only when acting through devolved power, as a procurator, but this would be, in any case, contrary to the Scriptures. In the absence of such an authorization "per medium aut sine medio" from the human legislator, the pontiff could perhaps have carried out the function of "pronouncing and making public" the establishing of the emperor, not because this is necessary but, rather, in order to solemnize the occasion.⁶⁷ But how the empire had effectively been transferred to Charlemagne is precisely the subject of the *De translatione Imperii*. At the place where the *Defensor pacis* mentions the composition of *De translatione Imperii*, Marsilius is in the midst of contesting the decretal *De iure iurando* and, most of all, the *Monitorium* on the basis of which John XXII did not recognize the empire as Ludwig the Bavarian's. Marsilius is concretely interested to demonstrate that the election by the Prince-Electors is an efficient cause of the establishing of the emperor, at least until the procedure becomes ratified as valid by the legislator.

"Principi di teoria nella Marca Trevigiana: Clero e comune a Padova al tempo di Marsilio," *Medioevo* 6 (1980), 317–36. On the influence of the forms of election in the religious orders, see Léo Moulin, "Une source méconnue de la philosophie politique marsilienne: l'organisation constitutionnelle des ordres religieux," in *Medioevo* 6 (1980), 337–45. See also Kenneth Pennington and Joseph P. Canning, "Law," in *The Cambridge History of Political Thought, c. 350–c. 1450*, ed. J.H. Burns (Cambridge, 1988), pp. 424–76.

⁶⁶ Marsilius of Padua, *De translatione Imperii*, p. 402.

⁶⁷ Marsilius of Padua, *Defensor pacis* II.xxx.6–8.

The example of Charlemagne, which in the *De translatione Imperii* is analyzed in detail, is fundamentally analogous to a contemporary imperial election, in which, however, the people are represented by the Prince-Electors. In both cases, it is the pope who is given the honor of solemnizing the coronation. Accordingly, the transfer to the Franks is the most interesting historical episode, to which Marsilius pays the greatest attention, since this is precisely the transfer at which the papal attacks are directed. The coronation of the emperor by the pope is not more important than the coronation of the king of France by the bishop of Reims. Marsilius denies an efficient role to the pope, be it in the deposition of Childeric or the coronation of Charlemagne. In the first case, it is the “*valentior pars*” which operates; in the second, the Roman people with their acclamations, and in the case of the German emperor, the Prince-Electors.

This is the contribution made by the historical facts. Marsilius does not concede to his adversaries their interpretation of them, nor does he endorse as truthful the prejudiced interpretations of some of the sources which provided political and juridical arguments to his contemporaries.⁶⁸ The directive criterion of his historical reconstruction

⁶⁸ Pincin, *Marsilio*, p. 126, clearly underlines the politics of Marsilius' historical reconstruction, emphasizing, however, Marsilius' capacity of purifying the historical narration from unrelated elements, such as those about canonical and Roman law, with the intention of “blunting” the points of Colonna's arguments. Quillet, Introduction to *De translatione Imperii*, in criticizing the idea of the excessive politicization of Marsilius' argument defended by Pincin, emphasizes how history completes the refusal of the *plenitudo potestatis* already developed by Marsilius at a rational and biblical level. Marsilius' historical vision would be providential, as Quillet better clarifies in her in *La philosophie politique de Marsile de Padoue*, pp. 238–66. The empire and the emperor would be attributed a responsibility contrasting, in a way, with a decadence, of Augustinian stamp, of the times and of history. With profuse argumentation, this, it seems to me, is an element which is also at the heart of the reflections of George Garnett, *Marsilius of Padua and 'The Truth of History'* (Oxford, 2006), who sees the historical thought developed within the whole of Marsilius' work as rendering explicit the paradox in which the providentialism of history would manifest itself as a lawsuit for perfection, having at its center the role of the emperor, and of perversion and of decadence. In contrast, Cary J. Nederman, in his Introduction to Marsiglio of Padua, *Writings in the Empire*, prefers to emphasize how in the *De translatione Imperii* history simply becomes a new battlefield, between the reign of reason and revelation—an opinion shared by Carlo Dolcini, *Introduzione a Marsilio* (Rome, 1995)—but also can be seen as one of Marsilius' principal abilities, alongside that of changing “language” from theological to philosophical to historical, according to the rhetorical requirements of the political agenda. Nederman develops this latter point in his “Empire and the Historiography of European Political Thought: Marsiglio of Padua, Nicholas of Cusa, and the Medieval/Modern Divide,” *Journal of the History of Ideas* 66 (2005), 1–15. See also José Antônio de C.R. de Souza, “Scientia Historica

is always political, because the interests of those who used history in order to arrogate themselves, for the present, powers which were not theirs, seem to him to be political. Likewise, the motivations seem to him to be political on the part of those who had constructed the chronicles and narrations.⁶⁹ Marsilius often underlines the interests in play of historical figures, who are always seen as political actors. He deletes doubtful sources, not thereby following a philological criterion but maintaining coherence with his own political rationality. He excludes compromised documents, such as the decretals, expressions, and instigators of the papal political intentions. He emphasizes the political role of religious beliefs, and even the political necessity of religion, as in the case of the role of Mahomet in the secession of the empire and the detachment of the Latin West from the Greek East, purifying the historical account of any providentialistic implications. However, these moves betray a real interest not in history itself but, rather, in its ideological role in political theory. Each and every historical fact becomes a potential clash, an element of far-reaching political syntax, which goes through and shapes a discussion in political theory. Though assigned a weak epistemological status with respect to the correctly interpreted biblical stories and to the *rationes* of political philosophy, history has a worth which can be accounted for, its own rationality and authoritativeness. For this reason, it can be organized into political argumentation.

ECCLESIOLOGY IN ACTION: THE *DEFENSOR MINOR*

The *Defensor minor*⁷⁰ is conceptually structured into two distinct parts. The first takes up some of the leading themes of the *Defensor pacis*,

e *Philosophia Politica* non Tratado Sobre a Translação do Império de Marsílio de Pádua," *Veritas* 3 (1998), 643–55.

⁶⁹ In the *Defensor pacis*, Marsilius had not hesitated to discard a point from Martin Polonus' narration, inconsistent with the rationality of the Marsilian reconstruction. In this case, Martin is even personally accused of mystification of the information: "Nec in hoc Martinus credendum est, quoniam ipse cum sui ordine usurpacionis huiusmodi pariceps erat" (II.xxv.8).

⁷⁰ The text has had two critical editions made in the last century: *Defensor Minor of Marsilius of Padua*, ed. C. Kenneth Brampton (Birmingham, 1922); and *Marsilus of Padua, Defensor minor. De translatione Imperii*, ed. Quillet and Jeudy, with a French translation. With regards to the latter edition, the improvements suggested by Carlo Pincin, "Storia e critica dei testi di Marsilio," *Rivista storica italiana* 93 (1981), 775–94, should be at least taken into consideration. Also see Jürgen Miethke, "Die kleinen politische Schriften des Marsilius von Padua in neuer Präsentation: Bemerkungen zu

especially those presented in the second *Dictio* of the major work, with further developments of a number of particular problems—e.g., of the sense and use of pilgrimages, the lawfulness of indulgences, and the characteristics of the religious vows. All of this is carried out, however, with various points of emphasis on important theoretical and political themes, such as the role of the emperor, which seems now to be absorbing that of the human legislator, and the structure and nature of the general council.

The second part, consisting of the last four chapters, deals with two problems concerning marriage, namely, whether two spouses united in marriage “can be separated for certain causes and which authority can do so” and, whether a degree of consanguinity which normally prevents from marrying “can or should be removed by means of a dispensation” and who has the power to concede it.

This double center of the work is not accidental and has raised from the start problems of chronology and composition for scholars. The question is further complicated by the extremely close correspondence between Chapters XIII–XV of the *Defensor minor* with other writings or documents attributable to Marsilius—three of them in all.⁷¹ In the longest, the *Tractatus consultationis*, Marsilius provided Ludwig the Bavarian with an expert opinion about whether the emperor himself could annul the marriage between Margaret Maultasch, duchess of

einer Edition und einem Kommentar,” *Mittelalterliches Jahrbuch* 17 (1982), 200–11; H.S. Offler, “Notes on the Text of Marsilius of Padua’s ‘Defensor minor,’” *Mittelalterliches Jahrbuch* 17 (1982), 212–16, now in *Church and Crown in the Fourteenth Century*; see also Roberto Lambertini, “Il Concilio Generale, la logica e l’ecclesiologia: convergenza e dissenso tra Guglielmo di Ockham e Marsilio da Padova,” in *La povertà pensata* (Modena, 2000), pp. 289–304. There is an Italian translation, *Marsilio da Padova, Il Difensore Minore*, ed. Cesare Vasoli (Napoli, 1975), following Brampton’s text; an English translation, *Writings on the Empire*, ed. Cary J. Nederman; and a Portuguese translation, *Marsilio da Padova, Defensor minor*, ed. J.A. Camargo Rodrigues de Souza (Petrópolis, 1991).

⁷¹ Namely, the *Forma divorcii matrimonialis* and the *Forma dispensacionis*, in which the emperor speaks in the first person; in the second work, there are parts precisely repeating the *Defensor minor* and the *Tractatus consultationis*, which explains *ad ampliorem evidentiam* the fundamentals of the question, “edited” by Marsilius, which coincides with the last chapters of the *Defensor minor*; all are published in Pincin, *Marsilio*, pp. 261–83. To make complete the information on Marsilius’ minor works, we should mention also the document entitled *Quoniam scriptura* (Munich, Staatsbibliothek, MS Lat. 17833), written in 1331 by the intellectual group at the court of Munich and dedicated to the emperor because they did not have dealings with the pontiff. This document contains some ideas associated with Marsilius, who would have participated in its elaboration. See Dolcini, “Marsilio e Ockham,” and Offler, “Meinungsverchiedenheiten am Hof Ludwigs der Bayern in Herbst 1331.”

Carinthia and countess of Tyrol, and her husband, John-Henry of Luxemburg. He gave there, as we shall see, an affirmative reply concerning the legality of the emperor's allowing a new marriage between his own son, Ludwig, and Margaret. He thus maintains that the emperor could concede a "dispensation," normally given by the pontiff, which was necessary because both were tied by consanguinity of the third degree. William of Ockham, who was another member of the exiled "intellectual" group at Ludwig's court, gave his own answer, writing a *Consultatio matrimoniali* in which the capacity is conceded to the emperor, in exceptional cases, to legitimate a marriage of this kind.

The Maultasch case held some importance within Ludwig the Bavarian's political project. The marriage between his son Ludwig and Margaret was supposed to unite the political destinies of Tyrol and Bavaria—thus, a normal case of political marriage with dynastic implications.⁷² The problem such a project faced was precisely the annulment of Margaret's previous marriage and the question of consanguinity. The solution to these had traditionally pertained to the Church. But the case here was complicated by the hostile relations which opposed the emperor Ludwig to the pontiff and made the dispensation impossible to receive.⁷³ The emperor's request from his experts to express a judgment on the possibility that civil authority, in its highest form, i.e., the emperor himself, may concede an annulment and a dispensation is therefore understandable. The discussion certainly turned on a political interest in a concrete governmental action, but it

⁷² For the historical background of this episode, see Wilhelm Baum, *Margarete Maultasch: Ein frauenschicksal im späten Mittelalter* (Vienna, 2004); D. Veldrup, "Johann Propst von Vysherad, illegitimer Sohn eines 'impotenten' Luxemburgers," in *Studia Luxemburgensia: Festschrift Heinz Stoob Zum 70. Geb.*, ed. F.B. Fahlbusch and P. Johanek (Warendorf, 1989), pp. 50–78; and Mario Grignaschi, "Il matrimonio di Margarete Maultasch e il 'Tractatus de matrimonio' di Marsilio da Padova," *Rivista di storia del diritto italiano* 25 (1952), 195–204. For a historical frame, and the differences in argumentation between Marsilius and Ockham, see Kenneth J. Thomson, "A Comparison of the Consultations of Marsilius of Padua and William of Ockham relating to the Tyrolese Marriage of 1341–1342," *Archivum Franciscanum Historicum* 63 (1970), 3–43.

⁷³ In any case, the marriage did not consolidate the passing of Tyrol to the imperial family. The region actually passed down to the Habsburgs in 1361. John-Henry of Luxemburg, the "repudiated" husband, asked for the annulment of the marriage with Margaret in 1348 so that he could remarry. To do so he had recourse to the hypothesis of an "impotentia coeundi" which had been the cause of Margaret's request for annulment, but he regarded himself married during the period with Maultasch, for otherwise he would not have remarried.

also posed a theoretical problem of no meager importance: the competence, by right, of the civil authority in questions concerning conjugal unions, which signified the distinction, for Marsilius, between the spiritual element of the matrimonial bond and its properly juridical aspect.⁷⁴ In any case, on 10 February 1342, the wedding took place, though overshadowed by dark omens such as the accidental death, a few days earlier, of the bishop who was supposed to celebrate it.⁷⁵

From this element of chronological certainty rises a series of issues about the dating of the *Defensor minor*, which we can merely outline. The first editor of the text, Kenneth Brampton, took it that the documents concerning the “expert opinion” of Marsilius for the emperor precede the *Defensor minor*, which would thus have been written in a period after the Maultasch marriage, between the end of 1342 and the beginning of 1343, and which thus would have recycled material already written earlier.⁷⁶ This opinion was subsequently discarded on the basis of research by H.S. Offler⁷⁷ and Carlo Pincin,⁷⁸ the latter interpreting certain internal references in the *Tractatus consulationis* which invert the chronological relation between the *Defensor minor* and the Marsilian documents on marriage. Subsequent considerations in support

⁷⁴ A further element to reflect upon is given by the relation between intellectuals and power, as is lucidly shown by Miethke, *De potestate papae*. On the one hand, the court experts provide the ruler with “a good conscience concerning the finalities of his own politics”; on the other hand, they make public opinion a matter for reflection, thus making a claim for the necessity of a foundation to make decisions which elude the simple matters of fact and brutal force.

⁷⁵ When Clement VI recalls, a few years later, the acts with which Ludwig manifested his desire to oppress the Church and abuse its power, he mentions also this so un-ritualistic marriage: “...matrimonia solennizata in facie ecclesie separando et in gradibus consanguinitatis et affinitatis prohibitis coniungendo...” The text is published in H.S. Offler, “A Political ‘Collatio,’” pp. 126–44. In the same text, Ludwig is accused of being the protector of heretics, in particular to have sustained until their deaths John of Jandun and Marsilius of Padua. Clement adds “audemus dicere quod vix nunquam legimus peiorem hereticum illo Marsilio. Unde de mandato Benedicti predecessoris nostri de quodam eius libello plus quam ducentos et quadraginta articulos haereticales extraximus” (p. 136). The speech is given on 10 April 1343, so we know that Marsilius, the worst amongst the heretics, is, at that date, dead.

⁷⁶ See Brampton, Introduction to *Defensor Minor of Marsilius of Padua*, according to whom “the posteriority of the *Defensor Minor* seems assured,” p. ix.

⁷⁷ See H.S. Offler, Ockham, *Opera politica*, 1:271, note 6.

⁷⁸ Pincin, *Marsilio*, pp. 204–05.

of such an hypothesis have been offered by Jeannine Quillet,⁷⁹ Jürgen Miethke,⁸⁰ Carlo Dolcini,⁸¹ and Cary J. Nederman.⁸²

The problem of the dating, as it appears from the work of historians, is enriched by the significance given to the presence, identifiable though not explicit, of William of Ockham in the first part of the *Defensor minor*. Ockham had criticized the *Defensor pacis* on some important points, in the third part of the *Dialogus*, probably written between 1338 and 1340. Marsilius seems to want to answer the criticisms of the English Franciscan, though he does not quote him, on the points which epitomize his own line of thought.⁸³ Through these indications, we can deduce some elements of chronology but, most of all, they explain the double nature of the work, the twofold agenda which structures it. In effect, if the Maultasch problem represents the motivation for the writing of the “matrimonial” part of the work, the first substantial block of chapters would have been written in a previous phase, for the purpose of insisting, with further precise points, on the structure of Marsilius’ own ecclesiological politics, and also, but not exclusively, as a reply to Ockham’s criticisms.⁸⁴

⁷⁹ Quillet, Introduction to *Marsile de Padoue*, pp. 159–60, claims that Marsilius ends the work between the end of 1340 and the beginning of 1341, when the Maultasch affair “est déjà dans l’air.”

⁸⁰ Miethke, *Die kleinen politische Schriften*, suggests the idea of a composition in different phases, whereby the text of the first part of the *Defensor minor* would have been written, up until the twelfth chapter, not dependent on the matrimonial events, whereas extracts of the documents prepared in view of the Maultasch case would have been further additions.

⁸¹ Dolcini, “Marsilio e Ockham,” where the hypothesis of a composition in phases is further corroborated. For a very useful and synthetic overview of the problem of the dating of the *Defensor minor* and of its guiding ideas, see also Carlo Dolcini, *Introduzione a Marsilio da Padova* (Rome, 1995), pp. 49–69.

⁸² Nederman, Introduction to *Writings on the Empire*, p. xviii, takes up the idea of two works merged into one, with prevailing stylistic considerations concerning the scanty integration of the two parts of the work and the great number of repetitions in Chapters 1–12 and 13–16. For Nederman, the time of writing should be contained between 1339 and 1342.

⁸³ See, however, Martin Ossikovski, “A Brief Note on *Dialogus*, *Defensor Minor*, and the Problem of *Ecclesia Graecorum*,” *Archiv für mittelalterliche Philosophie und Kultur* 13 (2007), 230–35. Ossikovski, from the reference to the Greek Church in the *Defensor minor*, identifies a possible answer from Ockham in I, 4 of part III of the *Dialogus*, which would thus be written after the *Defensor minor*, which in turn would have been written after *Dialogus*, III, I, 3.

⁸⁴ On the relations between Ockham and Marsilius, see, in addition to the previously quoted works, Georges de Lagarde, “Marsile de Padoue et Guillaume d’Ockham,” *Revue des sciences religieuses* 18 (1937), 168–85, 428–54; Offler, “Meinungsverchiedenheiten am Hof Ludwigs der Bayern in Herbst 1331,” 191–206; Carlo Dolcini,

The *Defensor minor* begins with a plea to eliminate an ambiguity, namely, one contained in the term *iurisdictio*, jurisdiction. For indeed, this term is used to indicate, amongst other things, the “power to dissolve and to bind” held by the priests, that is, their presumed capacity to inflict both temporal and spiritual punishments, such as excommunication, taken also as the exclusion from civil society. What really is *iurisdictio* and who should be practicing it? Marsilius makes use of a classical definition of jurisdiction as *dicere ius*, to pronounce people’s rights, i.e., the law—a definition which, in turn, implies a series of explanations. The source here is none other than the *Defensor pacis*, to which nothing radically new is added, other than a more compact set of arguments.

The term *jurisdiction* embraces a very wide semantic spectrum, and for this reason, it is ambiguous. He who “says the law” is he who discovers a rule or a reason for the acts which are to be carried out in civic life. In this way, it is the “prudent men who discover it”; but those same men also present others with this rule (i.e., the “doctors or whoever has the authority of teaching”); it is also he who “says the law” (namely, the judge and the ruler) who promulgates a law by means of coercive precepts and who, therefore, has coercive power and authority to make laws; and it is he who has coercive power with respect to transgressors of the law.⁸⁵ Marsilius, therefore, needs to clarify which of these definitions applies to the priestly jurisdiction understood as the power to dissolve and bind. If it is clear that no man is able to pronounce the law as far as divine law is concerned (unless it is in the second sense), it is just as consequential, according to Marsilius, that no priest, as such, can be considered to be in possession of a jurisdiction understood in the third or fourth way, i.e., a jurisdiction endowed with coercive power. In this manner, Marsilius completes a process of clarification of the concept of jurisdiction which had already been instigated by juridical and theological claims. In this sense, the reference to Peter Lombard is significant, beyond the question of Marsilius’ attributing a polemical intent to some particular commentator

“Osservazioni sul *Defensor minor* di Marsilio da Padova,” *Atti della Accademia delle Scienze dell’Istituto di Bologna, Cl. di Scienze Morali* 64 (1975–76), in *Crisi di poteri*, pp. 251–67, and his “Marsilio contro Ockham: Intorno a una recente edizione del *Defensor Minor*,” *Rubiconia Accademia dei Filopatrini* 12 (1979), now in *Crisi di poteri*, pp. 269–89; and Jürgen Miethke, “Marsilius und Ockham: Publikum und Leser ihrer politischen Schriften u späteren Mittelalter,” *Medioevo* 6 (1980), 543–67.

⁸⁵ Marsilius of Padua, *Defensor minor*, c. I.

of Peter's,⁸⁶ because it refers to a whole tradition of thinking about the relations between jurisdiction and the power to dissolve and bind.

To give an example, we can quote, apart from Thomas Aquinas' commentary,⁸⁷ in a more strictly political context, the *De ecclesiastica potestate* by Giles of Rome,⁸⁸ in which, under the instigation of Peter Lombard, excommunication is understood as the power to close the doors of heaven but also to deprive a person of secular goods, with a significant grounding of civil jurisdiction over the sacramental.⁸⁹ But, to my mind, it is the relation, within the priesthood, which is more general, between "power of the order" and "power of jurisdiction" which establishes itself as the model for such a process of clarification of the notion of *iurisdictio*. Think of John Quidort of Paris,⁹⁰ for whom the spiritual jurisdiction in confession, or the power of consecrating the bread of the Eucharist, are distinguished from the "potestas iurisdictiois," understood as jurisdictional power within the Church.⁹¹ I would say that this process of distinction, already in John, emphasizes the coercive signification of *iurisdictio*. It tends to consider it as ever more autonomous with respect to the powers of a priestly "character," as we can see better in the *quaestio* of an important member of Quidort's confraternity, Hervaeus Natalis.⁹² Here, too, *iurisdictio* is

⁸⁶ Dolcini, *Introduzione a Marsilio da Padova*, p. 52, puts forward the name of Ockham, but rightly expresses the suggestion in dubious form.

⁸⁷ Thomas Aquinas, *Scriptum super Sententiis Magistri Petri Lombardi*, ed. F.M. Moos (Paris, 1947), pp. 905–06.

⁸⁸ Giles of Rome, *De ecclesiastica potestate*, II, c. 12.

⁸⁹ On the centrality of the notion of jurisdiction, see the classic Pietro Costa, *Iurisdictio: Semantica del potere politico nella publicistica medievale (1100–1433)* (Milan, 1969). On the presence of a tension in canon law between the jurisdictional element and what belongs more inherently to the order, see Brian Tierney, *Religion, Law and the Growth of Constitutional Thought, 1150–1650* (Cambridge, 1982). On the origin of the couple order/jurisdiction, see L. Villemin, *Pouvoir d'ordre et pouvoir de juridiction: histoire théologique de leur distinction* (Paris, 2003); on Thomas' systematization of the question, see O. De Bertolis, *Origine ed esercizio della potestà ecclesiastica di governo in san Tommaso* (Rome, 2005). On the importance of the ecclesiological element in Marsilius's political theory, see Riccardo Battocchio, *Ecclesiologia e politica in Marsilio da Padova* (Padua, 2005), who, beyond the specific point in question, provides an excellent general introduction to Marsilius' thought.

⁹⁰ John of Paris, *Tractatus de potestate regia et papali*, c. XII. On this point, see Gianluca Briguglia, *Introduzione a Giovanni di Parigi: Trattato sul potere regale e papale* (forthcoming).

⁹¹ John does not reach Marsilius' conclusions, who denies a real difference between the bishop of Rome and the others. See also Johannes von Paris, *De confessionibus audiendis (Quaestio disputata Parisius de potestate papae)*, ed. L. Hödl (Munich, 1962).

⁹² See *De iurisdictione: Ein unveröffentlichter Traktat des Herveus Natalis O.P. († 1323) über die Kirchengewalt*, ed. L. Hödl (Munich, 1959).

defined as a “*potestas dicendi jus*.” Such a definition helps to distinguish the various senses of the term. The emphasis is on the fact that he who can properly “say the law” is not so much he who says what is right, as in the case of the wise man, but rather he who is able to guarantee the law, that is, he who can enforce obedience to it.⁹³

Marsilius brings these ideas to more clear-cut conclusions, which, though present in the tradition, take on a different form and, perhaps, in their iteration, a greater coherence. The various significations of jurisdiction indicate, in Marsilius, the absolute heterogeneity of the priest’s responsibilities with respect to those of the human ruler, as well as the impossibility, grounded on reason and the Scriptures, of a direct parallel between the two spheres.

In this manner, Marsilius denies also that laws promulgated by the pontiff or any other priest can, in any way, be considered as laws in the proper sense. Decrees and decretals, i.e., the heart of all canon law, do not have any effective coercive status. It is not divine law which is in question, naturally, since canon law has a human origin, but neither is it a human law properly speaking, given that it is not established by a human legislator. The legislative activities of the Roman Church—which were obvious from the Pantagruellic productions of decretals, and especially from the pretention to supremacy over kingdoms and the empire which such far-reaching juridical and canonical work expressed—had raised discontent, made manifest already in the anti-papal literature. To mention but one example, think of the *Disputa fra un chierico e un cavaliere*⁹⁴ from the time of the quarrel between Boniface VIII and Philip the Fair. In the dialogue, a clergyman, very sure of himself, naturally representing the pope, accuses the laymen of trampling over the law, not respecting the laws, and refusing to pay the tributes to the Church. An astonished knight asks which laws he is talking about, and, having been answered that these are the pope’s decretals, he replies, laughing: “According to this principle, the pope should do nothing else but write so that each thing can become his, thanks to a simple written page.”⁹⁵

⁹³ *De iurisdictione*, ed. Hödl: “Sic quod potest obligare eos ad tenendum pro justo hoc quod dicit.”

⁹⁴ *Disputatio inter clericum et militem*, ed. R.W. Dyson, *Three Royalist Tracts*, 1296–1302 (Bristol, 1999), pp. 12–45.

⁹⁵ *Disputatio inter clericum et militem*, ed. Dyson, p. 13. However, we should not infer from this similitude that the young Marsilius was in contact with “Guillaume Nogaret,” as in the suggestive hypothesis of Lagarde, *Le Defensor pacis* (Louvain-Paris, 1970), pp. 292–304.

In Marsilius, however, such an ambiguity is not only underlined and methodologically resolved with the clear-cut refusal of the civil and political value of the decretals but also, in utter consistency and continuity with the *Defensor pacis*, we are shown how divine law has already established that which serves for our salvation, and how it is the role of the human legislator to fix that which is useful for the governing of the present life. Nor is the “sermo rhetoricus” valid, according to which a negligence committed by the civil prince in his duties requires a duty on the part of the priest to intervene in secular questions. This, in effect, would be contrary to the Scriptures—Marsilius quotes St Paul’s epistles to Timothy and to the Corinthians and their respective commentaries by Ambrosius and Chrisostomus—which forbid priests to mingle in secular affairs, but it is also contrary to reason. It is the human legislator who should correct the ruler and, in any case, Marsilius adds, “...even if such an authority to correct rulers did belong to some part or department of the city, it would never in any way be the role of the priests, but rather of the ‘prudent men’ or ‘the scribes,’ and even, rather, of the blacksmiths or leather-dealers or any other of those who deal in the mechanical arts. For neither human reason nor the law nor the sacred writings forbid them, in their advice or precepts, from mingling in civil or secular acts. It is however forbidden to the priests and the bishops...”⁹⁶

Making use here perhaps of some sort of hyperbole, Marsilius shows how it is precisely the priest who, uniquely among the parts of the community, can in no way aspire to intervene politically or to assert control over the ruler. And this is valid also in the case, of far greater importance, in which “the congregation as a whole or the prevalent part of it”⁹⁷ diverts from its faith in Christ. For not even in that case would the priests be allowed coercive power, given that the apostles were not granted the defense of their own bodies: “If you shall be persecuted in a city, run to another.”⁹⁸ Thus, only in the second sense of *iurisdictio* can the priests be considered as having some jurisdiction.

However, ambiguity remains at the very heart of the power to dissolve and bind. Marsilius thus tackles this ambiguity with a complex,

⁹⁶ Marsilius of Padua, *Defensor minor*, c. II, p. 182.

⁹⁷ Marsilius of Padua, *Defensor minor*, c. III, p. 182.

⁹⁸ Matthew, 10:23, cited in Marsilius of Padua, *Defensor minor*, c. III, p. 184. In this passage, Dolcini, *Introduzione a Marsilio*, p. 54, perceptively sees a reference to St Francis of Assisi.

and at times also stylistically convoluted, argument. First, from the power of the keys, we cannot infer the necessity of confession in order to reach salvation. For Marsilius, this would be not a precept but a piece of advice, as it would seem obvious from the Scriptures. However, the advice has its usefulness because practicing confession keeps men clear from sinning. Only the priests have such a task and perform such a function.

Marsilius refuses, at the same time, the worth of some of the acts which refer to these tasks, in particular, indulgences, fasting, abstinence from work during the canonical feast days, pilgrimages, and "passage overseas," i.e., the forced conversion of the Gentiles in the holy land. The bishop of Rome cannot in effect hand out indulgences or impose fasts or prevent people from working, all of which pertain to the human legislator or the general council. Furthermore, if pilgrimages can indeed be considered meritorious, they should not be confused with the precepts of the Scriptures. They can actually be substituted with activities still more meritorious. In fact, Marsilius adds, in the Gospel of St Matthew 25 we read: "I was hungry and you did not give me food; I was thirsty and you did not give me water; I was naked and you did not cover me.' But nowhere do we read: 'I was in Rome or in Jerusalem and you did not visit me.'"⁹⁹

Marsilius, in addition, draws attention to the fact that the pontiff or the other bishops or priests do not even have a real jurisdiction over vows. For the vow, that is, the "spontaneous promise, made in the mind or voiced, to do or omit to do something which is sufficiently known and recognized, in order to obtain a certain end, in the present or future life,"¹⁰⁰ does not belong to those acts which already fall under a precept. A vow can, however, be made concerning things which divine or human law allow. True enough, a vow must reckon on a kind of punishment in the case of its violation. Yet, just as someone who is civically obliged can be alleviated from the obligation only by a judge (or by him to whom he is obliged), in the same manner, someone who is obliged by a vow to God should turn only to God. He cannot be unbound from the vow either by the pontiff or by others. It is possible to retract a vow in order to "do the better and avoid the worse," as when a man who has vowed himself to solitary seclusion

⁹⁹ Marsilius of Padua, *Defensor minor*, c. VII, p. 216.

¹⁰⁰ Marsilius of Padua, *Defensor minor*, c. VIII, p. 218.

recedes in order to embrace a spiritual dignity such as episcopacy or when a man who made a vow of chastity in his youth, recedes, so as to avoid the sin of fornication. In any case, it is not the pope who can lift the promise, but the “judgment and conscience of him who made the vow.”¹⁰¹

Marsilius naturally analyzes also the most scandalous of priestly powers, namely, those associated with the keys, excommunication in its most obvious manifestations, i.e., the privation of spiritual and civil communication, and the so-called confinement to Satan. The first is the cessation of support for the excommunicated; we could call this spiritual isolation, which gives a greater power to Satan with regards to the excommunicated member of the congregation, who no longer benefits from the prayers of the Church. This spiritual isolation is accompanied by civil isolation to which the sinner is condemned, preventing anyone from having any kind of relation (also juridical) with him. For Marsilius, the Scriptures do not provide any grounds for this way of understanding spiritual excommunication, given that the Church is aimed at the salvation of sinners. The opinion of Peter Lombard and his followers on this point is therefore “dissonant” with the Scriptures.¹⁰² All the more absurd is the pope’s pretention to excommunicate the sinner or the heretic civilly. For indeed, this kind of exclusion can only be decided by the “will of the multitude or the prevailing part of the congregation existing in that place, being the citizens with whom the sinner is forbidden to be in relation.”¹⁰³ Even less, if we follow the argumentation, is it possible to forbid the divine offices to congregational communities.¹⁰⁴ Not unlike with the *Defensor pacis*, Marsilius manages to unravel the muddle of ambiguities which

¹⁰¹ Marsilius of Padua, *Defensor minor*, c. IX, p. 228.

¹⁰² Marsilius of Padua, *Defensor minor*, c. X, p. 238: “Unde dicitur quod possint sacerdotes sive pastores, cum ecclesia sive sine ecclesia fidelium, privare peccatores orationibus et suffragiis, vel orare Deum, quod talibus priventur, ut eis liberum sit irruere in interitum peccati, et quod maior Diabolo detur in eis saevendi potestas, quantum ad animam sive spiritum sicut videtur Magister intendere, cum similiter opinantibus sibi, non videtur mihi Scripturae consonum, sed dissonum manifeste. Unde ipsius et sic dicentium videtur sententiam declinanda.”

¹⁰³ Marsilius of Padua, *Defensor minor*, c. X, p. 240.

¹⁰⁴ Here Marsilius, having been excommunicated himself since 1327, naturally contests the prohibition which had been thrust upon the territories of Ludwig the Bavarian and which the emperor had not respected, as Clement VI remembers in 1343: “... interdictum violando et illos qui nolunt violare de beneficiis expellendo, ymmo (ut nobis relatum extitit) etiam aliquos occidendo...” ed. in Offler, “A Political ‘Collatio’ of Pope Clement VI,” p. 134.

is contained in the power of the keys and the ambivalence of the concept of jurisdiction.

By making the definition of *iurisdictio* a filter through which to run the argumentation, methodologically opting for the Scriptures as an interpretive guide, and eliminating the canonistic literature, Marsilius tears apart the priestly functions from the civic powers, which the expression *potestas clavium* tended rather to merge. He uses the same method when considering so-called *plenitudo potestatis*. Here is not the place to take up Marsilius' argument fully. It must suffice to underline how the problem of the power of the successor of Peter, vicar of Christ, was framed by the problem of the very nature of Christ, human and divine. For it is only in such a context that Christ's expression, "All power is given unto me in *heaven* and on *earth*," can be understood, namely, as a manifestation of divinity which in no way can fit his vicar, who succeeds to Christ only as a man. In this sense, the sentence does not confer full powers upon Peter. It still remains to be clarified for Marsilius whether in effect Peter had a particular power over the other Apostles and if, following this path, the Roman Church received supremacy accordingly, directly from Christ.

At this point, Marsilius becomes increasingly polemical in contesting an opinion which can be attributed to William of Ockham himself,¹⁰⁵ namely, observing that the Church as a whole has, from the very beginning, attributed to Peter and his successor such a supremacy. Marsilius challenges less the possibility that such primacy had historically belonged to the Church of Rome than the epistemic value of the tradition, that is, the idea that the primacy should be a truth of faith which custom, as such, has made into an indispensable instrument for salvation. The universal Church, when it expresses itself through the council, can establish truths which concern faith and salvation as long as the council is "summoned, celebrated and consumed according to the rite," because it is assisted by the Holy Spirit and the Scriptures, but it is not possible to claim truths which bind the faithful in another way. In the case of the primacy of Rome, an age-old practice and deep-rooted tradition, established perhaps with good intentions, can certainly be believed, but they are not to be maintained with regards to salvation. Moreover, the Scriptures do not ground this priority in any passage, according to Marsilius: "I do not remember having ever

¹⁰⁵ Cf. *Dialogus*, Ius IIIae, 22, in Goldast, *Monarchia*, 2:864.

read—not in the Scriptures, nor in anything immediately consequent to them—that such aforementioned primacies were conceded, in an immediate manner, by God or Christ to Saint Peter or to the Roman Church; for this reason, it is not necessary to believe in them in view of eternal salvation, because it is not a matter of faith, nor of precepts of the Scriptures.”¹⁰⁶

Contesting the epistemic value of the tradition enables Marsilius to introduce one of the “sensitive” points of his argumentation, in the perhaps most powerful chapter of the “shorter *Defensor*,” namely, concerning the nature of the council and its relations with the supreme human legislator. The human legislator is established by the totality of men, or their prevailing part, who must submit to the coercive laws. The totality of the provinces transferred to the Roman people, in virtue of their worth, the capacity to legislate over all regions. But the Roman people transferred such power to their ruler. Such a transfer to the Roman people, then from the people to the emperor, has, for Marsilius, never been revoked, though, in theory, this can happen.¹⁰⁷ The ruling of Rome over the other nations had not been violent, though sometimes certain nations who had desired to live barbarically had been subjugated. But most of the provinces had decided to subject themselves voluntarily to the protection of Rome, in order to enjoy civil peace and tranquility. Full legitimacy of the Roman dominion is, furthermore, attested by the Scriptures, especially in Paul’s letters, where the civil authority of Rome is explicitly recognized.¹⁰⁸

¹⁰⁶ Marsilius of Padua, *Defensor minor*, c. XI, pp. 250–52.

¹⁰⁷ Alluding to the *Lex regia* (CIC. Dig. 1.4.1; Inst. 1.2.6), by which the Roman people transferred to the emperor their own prerogatives and which has seemed to many historians an accentuation of the imperialistic turn taken on by Marsilius’ political doctrine (referring here to the appealing reconstruction, at times with novelistic style, of Lagarde, *Le Defensor pacis*, pp. 260–69. We shall not take up the discussion here, which is linked to a wider one about Marsilius as a “republican” or “totalitarian” (a debate that has been very well outlined by Battocchio, *Ecclesiologia e politica*, pp. 87–96). Let me emphasize, however, how such a Marsilian accentuation (which is understandable in the *Defensor minor* given the changed conditions of the context and especially the nature of the work, which is not supposed to be a summary of the major work but is supposed to show some of the consequences which follow from it in action and in thought) is not contrasted with the framework of the *Defensor pacis*, oscillating between two poles, the empire and the naturalness of any political community, the ruler and the legislator.

¹⁰⁸ Naturally Marsilius also quotes the passages from Matthew 21:21 and Acts of the Apostles, 25:10–11.

Marsilius' historical report of the excellence of the Romans is not inconsistent with what had been said in the *De translatione imperii*, though here it is the voluntary and almost providential feature of the rise of the empire which is accentuated and which, in my opinion, is absent from the other work. The legitimacy of the empire is grounded on the testimony of the Scriptures, but also on the events which, for Marsilius, are "narrated in the chronicles and the histories which deserve credence" but which actually are the objects of diverging interpretations. If the *Monarchia* by Dante follows the line of the "justice" of the Romans, we can turn to Augustine, who, in the *De civitate Dei*,¹⁰⁹ though he concedes a providential role to the government of Rome, reduces the right of submitting neighboring nations to the necessity of defense after having been attacked. But most of all, there is John of Paris, who explicitly declares that given how the Romans have dominated the other nations by violence, all nations can free themselves from them by violence.¹¹⁰

In any case, it is the emperor, who coincides here with the human legislator, whose task it is to summon the general council. However, so that such a council can be truly said to be universal, it must reunite the Latin Church and the Greek one. For Christ's faith "had been first amongst the Greeks, then the Latins." But also the Greek Church does not substantially diverge from the Latin one when it comes to the process of the Spirit, but only "in virtue of a certain appearance of the words." If there is a schism between the two churches, then it is precisely the council which should unite them, and it is incumbent upon the emperor to summon it.

A new political and ecclesiological theme is opened, whose solution will be sought for at different times during the centuries to come, that is, the theme of the reconstruction of ecclesial unity between Greeks and Latins. Here the problem seems to be set up in too utopian a manner, more like a polemic against the Roman Church than an effective historical possibility. But it appears in utter congruence with the arrangement of Marsilius' argumentation, which in the *Defensor minor*

¹⁰⁹ See for example, Augustine, *De civitate Dei*, IV.14–15.

¹¹⁰ John of Paris, *Tractatus de potestate regia et papali*, c. XXI. He even succeeds in discussing the theme of the providentiality of the empire against the empire, with the help of Peter Comestor, *Historia scholastica*, PL 198, XXXIII, col. 1239, who comments on Balaam's prophecy from Numbers, XXIV: "Ships shall come from Italy and shall overcome Asshur, and shall ruin the Jews but at the end, they too shall perish as an announcement of the fall of the empire."

is remarkably compact and consequential when dealing with these issues. In the *De translatione Imperii*, Marsilius had not emphasized, as Landulphus Colonna had, the theological problems which divided the East from the West, nor had he recognized the bishop of Rome's right to free Italy from its relations with Byzantium—not to mention the power of transferring the empire, which was entrusted, consistent with the *Defensor pacis*, to the Roman people (thus the transfer was legitimate). Now, the Greek world is seen as the repository of an authentic Christianity which only the emperor can attempt to reintegrate within a larger plan, both political and ecclesiological. Perhaps it is a plan which goes beyond the possibility of effective accomplishment, but in any case, on this point, Marsilius' ideas seem to open a new horizon of discussion, or better still, they seem to grasp at, or perhaps initiate, arguments of a debate and of political action which shall be fully developed in the following century.

But what is therefore the nature of a general council, capable of defining truth and what is to be believed for the sake of salvation? Here the polemic with William of Ockham, or at least their theoretical divergence, is completely obvious. The general council, duly summoned and well conducted, cannot err, according to Marsilius. The book of Acts shows how the Apostles and the old men met in order to clarify a doubt concerning faith, together with all the church of Jerusalem. Their deliberation, Marsilius stresses, "proceeded by virtue of the Holy Spirit." The council represents that apostolic congregation and it is to it that Christ referred when he promised his assistance: "I am with you till the end of time." This is the institution which Marsilius identifies as the place in which the Spirit manifests itself. In the council of all, "listening to each other, the minds of the faithful are mutually instigated to a certain consideration of the truth to which no one of them on his own and separated from the others, would arrive at."¹¹¹

And the false argument is worth nothing, as it says that, if each individual man can err, then all can err, therefore neither would the council have a guarantee of truth. It comes down to saying that, given that a single man cannot pull a boat, neither could a multitude of men united together. The reference seems to be to Ockham, who does

¹¹¹ Marsilius of Padua, *Defensor minor*, c. XII, p. 260; see canon 24 of the Council of 1215: "in quem omnes ('per quasi divinam inspirationem'), vel major pars vel sanior pars capituli conveniret."

not think that the council is infallible. He reports in the *Dialogus* the paralogism which Marsilius attacks.¹¹² But Ockham himself refutes the argument which he defines technically as a “fallacia divisionis.”¹¹³ Marsilius may have perhaps misunderstood the argument by attributing it to Ockham, or, together with Ockham, have been attacking a third author. In any case, both visions of the council are opposed: the English Franciscan thinks that faith can be maintained by a single person, even by a woman, and that such is the sense of Christ’s promise, whereas Marsilius considers it necessary to control, so to speak, the institution of the council. Truth is born out of dialogue and listening to one other.¹¹⁴

The last chapters of the *Defensor minor*, as we have already mentioned, are devoted to the “matrimonial” theme. The problem was that of understanding whose role it was to exercise coercive jurisdiction over divorce, and the elimination of an obstacle to marriage, such as consanguinity. Marsilius insists on the distinction between a non-coercive judgment, which can belong to priests or specialists, and the responsibility of coercive judgment within the sphere of human acts—the task of the human legislator and coercive judge.

Particularly interesting, though not entirely coherent, is Marsilius’ analysis of the spiritual or non-spiritual nature of marriage. First of all, there were authentic marriages also amongst the pagans, as can be inferred from St Paul.¹¹⁵ But in talking of “sacrament” with respect

¹¹² William of Ockham, *Dialogus*, I, V, 5, ed. Goldast, *Monarchia*, 2:475.

¹¹³ Roberto Lambertini in an exemplary article, “Il Concilio Generale, la logica e l’ecclesiologia: convergenza e dissenso tra Guglielmo di Ockham e Marsilio da Padova,” in *La povertà pensata*, pp. 289–304, elaborates “Ockham and Marsilius on an Ecclesiological Fallacy,” *Franciscan Studies* 46 (1986), 301–15, to show how the two authors, though radically diverging on the nature of the council, technically refute the same logical fallacy. Lambertini, accepting also some textual emendations by Miethke and Offler, proposes the following reading of Marsilius’ text: “Nec obstat paralogismus quoad compositionem et divisionem, quo quidam inferunt inducendo ‘hic et ille potest errare in dubiis circa fidem, et sic de singulis, ergo omnes.’ Deficit enim haec illatio secundum formam, ut diximus, quoniam licet in sensu diviso sit certa in singularibus, tamen composite pronuntiata est falsa, et apparet hoc etiam evidenter in aliis.” It still remains uncertain whether Marsilius had intended to refute the argument of a third author or understood the paralogism as Ockham’s opinion, given that it could have seemed compatible with Ockhamist ecclesiology. Carlo Dolcini, “Marsilio e Ockham,” p. 411, expresses a similar doubt.

¹¹⁴ For some lines of reflection on the theme of the truth in political debates of the preceding generation to Marsilius of Padua, see Gianluca Briguglia, “*Inquirere veritatem*: Osservazioni sui prologhi dei trattati politici di Giovanni di Parigi, Egidio Romano, Giacomo da Viterbo (1301–1303),” *Il pensiero politico* 45 (2007), 3–20.

¹¹⁵ 1 Corinthians 7:14: “The unfaithful husband is often saved by the faithful wife.”

to marriage, i.e., of a “sign of something sacred,” two things can be understood. One is the effect which comes about through the sacramental signs, so that marriage has something of the spiritual, namely, the union of Christ and of the Church. In this sense, however, spiritual is used equivocally¹¹⁶ and marriage itself becomes a sign of something else than itself, i.e., the relation between sign and signification of the sacrament is inverted.¹¹⁷ As for the dispensation for marriage despite consanguinity, it is easy for Marsilius to claim that had the prohibition of marriage actually been grounded upon divine law, no one, “not even an angel from the heavens,” could remove such an impediment. The fact that the pontiff has conceded certain dispensations demonstrates, therefore, that the prohibition is of human origin: “But to dispense from precepts or statutes of such a law belongs only to the authority of the emperor or prince of the Romans...”¹¹⁸

Almost twenty years earlier, Marsilius had been completing his most important *Defensor*, which represented for him a point of no return, an intellectual watershed, and a human adventure, thrilling at times, which took him into the heart of a battle of ideas, but also of institutions, of armies, and of personal interests. He played these out between the Parisian academies and riotous cities of the north of Italy, between Ludwig’s “imperial” Rome and an anti-pope puppet and the court of Munich, where, though a remarkable personality, he perhaps was isolated because of the very radicalism of his own ideas. The *Defensor minor*, which brandishes something like the “Teutonic sword” for which Mussato many years earlier had reproached him, indicates his will to transform his own ideas into sharp weapons at the service of the emperor, and shows us that, but a few months before his own death, the battle, for Marsilius, was still raging.

¹¹⁶ Marsilius says that in this sense “spiritual can be said insofar as it is the sign or the figure of something spiritual, just as food and urine are said to be healthy not because the essence of health are in them but because they cause or indicate health.” Cesare Vasoli, Introduction to *Marsilio da Padova: Il Difensore minore*, p. 58 finds this example “davvero singolare” (“truly peculiar”), but actually Marsilius is trying to find a sense analogous to the term *spiritual* in order to make it more manageable and useful to his complex argumentation. The examples of food, of urine, and of health are a classical ones from Aristotle, which Thomas Aquinas and William of Ockham also take up, together with many others, to demonstrate the univocity or analogicity of “being.”

¹¹⁷ On the different scholastic positions regarding the nature of the sacraments, see I. Rosier-Catach, *La parole efficace: Signe, rituel, sacre* (Paris, 2004).

¹¹⁸ Marsilius of Padua, *Defensor minor*, c. XVI, p. 308.

CHAPTER NINE

THE RECEPTION OF MARSILIUS

Thomas M. Izbicki

The reception of Marsilius of Padua in the fifteenth century is a topic of speculation among historians of political thought, but the impact of his works often is difficult to prove. The political writers of that period were slow to name writers of more recent centuries, even when they were conduits of opinions of earlier authors, classical and patristic.¹ Even a modern writer who represented a contrary opinion might not be mentioned by name, or one author might stand for all those adhering to that doctrine.² Marsilius is particularly difficult to trace. This need not be because he was condemned by Pope John XXII in the decree *Licet iuxta doctrinam*, which drew propositions from Dictio II.³ William of Ockham, another fierce opponent of that pope, was still cited by name, especially in Parisian circles.⁴ One need only mention a few names. Pierre d'Ailly did an *Abbreviatio dialogi Okam*⁵ and cited

¹ Thomas M. Izbicki, "Petrus de Monte and Cyril of Alexandria," *Annuario Historiae Conciliorum* 18 (1986), 293–300.

² Jean Gerson's *De potestate ecclesiastica* stands for all conciliarist writings in Antonius de Cannario's *De potestate papae supra concilium generale contra errores Basiliensium*; see Thomas M. Izbicki, "Ecclesiological Texts of Jean Gerson and Pierre d'Ailly Among the Codices Vaticani Latini," *Manuscripta* 32 (1988), 197–201 at p. 198; and Thomas Prügl, *Antonio da Cannara, De potestate pape supra Concilium Generale contra errores Basiliensium: Einleitung, Kommentar und Edition ausgewählter Abschnitte* (Paderborn, 1996), pp. 14–15.

³ For the text of *Licet*, see Edmond Martène and Ursin Durand eds, *Thesaurus novus anecdotorum*, 5 vols (Paris, 1717), 2:704–16 at col. 715. See also the excerpts in Henricus Denzinger and Adolfus Schönmetzer eds, *Enchiridion symbolorum, definitionum et declarationum de rebus fidei et morum*, 31st ed. (Barcinone, 1976), pp. 289–90. They are translated in Edward Peters, *Heresy and Authority in Medieval Europe: Documents in Translation* (Philadelphia, 1980), pp. 230–31.

⁴ James Sullivan, "Marsiglio of Padua and William of Ockham II," *American Historical Review* 2 (1897), 593–610, provides extensive information on the reception of Ockham's polemical works at pp. 607–09.

⁵ Francis Oakley, *The Political Thought of Pierre d'Ailly: The Voluntarist Tradition* (New Haven, 1964), pp. 141, 177–79, 243.

Ockham's opposition to John's teachings on the beatific vision.⁶ Gilles des Champs quoted the *Dialogus* at a council held in 1398 to discuss remedies for the Great Schism (1378–1418).⁷ John of Segovia owned the *Dialogus*, although it is unclear whether he was indebted to Ockham for his own ideas.⁸ Jean Courtecuisse did his *Quaestio de infallibilitate concilii generalis* by quarrying the works of Ockham. Even popes and papalists felt free to mention Ockham.⁹ Juan de Torquemada used the *Dialogus* in his discussion of the sources of law.¹⁰ Antonius de Cannario made mention of Ockham's *Octo quaestiones* in his defense of Pope Eugenius IV against the Council of Basel.¹¹ Perhaps Marsilius' opinions were not in tune with those of many later writers who had more traditional ideas about clerical power. Ockham could be employed to support certain clerical interests, whereas the Paduan could not be so adapted with ease.¹² Moreover, we must distinguish carefully between Marsilius' actual influence and his role as a papalist bogey, cited by Juan de Torquemada and later writers to tar conciliarists with the brush of condemned error. Torquemada's condemnation

⁶ Louis B. Pascoe, *Church and Reform: Bishops, Theologians and Canon Lawyers in the Thought of Pierre d'Ailly, 1351–1420* (Leiden, 2005), p. 193. See also pp. 207–08, 242–46, 253–55 for d'Ailly's use of Ockham in other contexts.

⁷ Victor Martin, *Les origines du Gallicanisme*, 2 vols (Paris, 1939), 1:347.

⁸ Jesse D. Mann, "Ockham Redivivus or Ockham Confutator?: Juan de Segovia's *Repetitio de superioritate* Reconsidered," *Annuaire Historiae Conciliorum* 24 (1992), 186–208; and Mann, "William of Ockham, Juan de Segovia and Heretical Pertinacity," *Mediaeval Studies* 56 (1994), 67–88. A *Tabula Dialogi Ockham* is listed as a doubtful work of Segovia by Benigno Hernández Montes, "Obras de Juan de Segovia," in *Repertorio de historia de las ciencias eclesiásticas en España*, vol. 6 (Salamanca, 1977), pp. 266–347 at p. 344.

⁹ H.J. Sieben, "Die *Quaestio de infallibilitate concilii generalis* (Ockham-Exzerpte) des Pariser Theologen Jean Courtecuisse (d. 1423)," *Annuaire Historiae Conciliorum* 8 (1976), 176–99, repr. in *Studien zur Gewalt und Überlieferung der Konzilien* (Paderborn, 2005), pp. 153–76.

¹⁰ Thomas M. Izbicki, *Protector of the Faith: Cardinal Johannes de Turrecremata and the Defense of the Institutional Church* (Washington, DC, 1981), pp. 65–66. Torquemada also criticized the *Dialogus* for saying there was no mention in Scripture of Peter's having been in Rome; see *Summa de ecclesia*... (Venice, 1561), fol. 150r: Bk. II, c. 36.

¹¹ Prügl, *Antonio da Cannara*, p. 18, note 2.

¹² Brian Tierney, *Ockham, the Conciliar Theory and the Canonists* (Philadelphia, 1971). We must also recall that Ockham criticized Marsilius in his own writings; see John Kilcullen, "The Political Writings," in *The Cambridge Companion to Ockham*, ed. Paul Vincent Spade (Cambridge, 1999), pp. 303–25, esp. p. 323, note 54.

is all the more misleading for its failure to distinguish adequately in a key passage between the opinions of Marsilius and Ockham.¹³

The first clue we must seek in tracing Marsilius' reception is the survival of manuscript copies of his works. With the coming of print, we must also look for typographic diffusion of Marsilius' polemics in both Latin and vernacular versions. Here we must look at not just the *Defensor pacis* but also the *Defensor minor*, the *De matrimonio*, and the *De translatione Imperii* as well.¹⁴

The *Defensor pacis* survives in two groups of manuscripts, the French and the German. The French group contains 17 manuscripts, some of which belonged to the monastery of Saint-Victor in Paris (Paris, Bibliothèque nationale du France, lat. 14503, 14619, and 14620) or the Sorbonne (BNF lat. 15690 and 15869).¹⁵ These copies, most dating from the late fourteenth or the fifteenth centuries, place Marsilius in Paris, the seat of theological conciliarism. The German manuscripts, 11 in all, mostly date from the same period.¹⁶ Although this is not a large number of manuscripts, they show a continuing interest, well into the fifteenth century, in Marsilius' dissident opinions.

The *Defensor minor* and the *De matrimonio* survive only in one manuscript each. The former, however, is an Italian copy from the fifteenth century (Oxford, Bodley, canon. Misc. 188), placing it far afield from most Marsilius codices.¹⁷ The *De translatione Imperii*, however, survives in 17 codices. Some contain other works of Marsilius (e.g., Bremen, Staatliche Bibliothek, lat. B. 35). Here the geography of copying is different from that of the *Defensor pacis*. Most copies are

¹³ Juan de Torquemada, *Summa*, fol. 240r: Bk. II, c. 100, "...sicut fuit Marsilius de padua Ocham cum complicitibus suis, ex quorum doctrina extracta sunt pro magna parte decreta illa praefata Basiliensium." See Brian Tierney, *Foundations of the Conciliar Theory: The Contribution of the Medieval Canonists from Gratian to the Great Schism* (Cambridge, 1955), pp. 1–20; and Francis Oakley, *The Conciliarist Tradition: Constitutionalism in the Catholic Church, 1300–1870* (Oxford, 2003).

¹⁴ We omit here the *Auctoritates Aristotelis*, occasionally attributed to Marsilius; see *Les Auctoritates Aristotelis: un florilège médiéval, étude historique et édition critique*, ed. Jacqueline Hamesse (Louvain, 1974).

¹⁵ Marsilius of Padua, *Defensor pacis*, ed. Richard Scholz, 2 vols, *Monumenta Germaniae Historiae, Fontes iuris Germanici antiqui in usum scholarum separatim editi* 7 (Hanover, 1932–33), pp. vii–xxv. Subsequent references to the *Defensor pacis* are taken from this edition.

¹⁶ Marsilius of Padua, *Defensor pacis*, pp. xxvi–xlvi.

¹⁷ Marsilius of Padua, *Oeuvres mineures: Defensor minor. De translatione Imperii*, ed. Colette Jeudy and Jeannine Quillet (Paris, 1979), pp. 154–62 [hereafter *Oeuvres mineures*].

German (13), usually from the fourteenth century. There are, however, four Italian copies, all (including Oxford, Bodley, canon. Misc. 188) dating from the fifteenth century.¹⁸ This greater rate of survival, compared to the other “minor works,” surely represents a German interest in imperial politics that cannot be divorced from the empire’s uneasy ties with the papacy.

The coming of print brought new means of diffusing Marsilius’ opinions, in Latin and in translation. The *Defensor pacis* was printed first in Basel in 1522. This publication has been attributed to Beatus Rhenanus, an attribution placing the *Defensor* firmly in a Reformation context.¹⁹ Later editions have been dated to 1592 (Frankfurt), 1599 (Heidelberg), 1612 (Frankfurt; 2nd ed. 1613), 1614 (in Goldast’s *Monarchia*), 1622 (Frankfurt), 1623 (Frankfurt), and 1692 (Frankfurt).²⁰ All of these editions appeared in places unfriendly to the papacy.²¹ So too did the *De translatione Imperii*, which appeared in 1555 (Basel by Flacius Illyricus),²² 1566 (Basel by Simon Schard—repr. in Strasbourg in 1609 and 1618), 1599 (Heidelberg with the *Defensor pacis*), 1614 (Frankfurt, also in Goldast’s *Monarchia*, which went through many later editions), and 1690 (London by Edward Brown).²³ Goldast also published the *De matrimonio*.²⁴ (Goldast occasionally was cited in England as the source for a reference to Marsilius.)²⁵ Where Marsilius

¹⁸ Marsilius of Padua, *Oeuvres mineures*, pp. 29–64.

¹⁹ John F. D’Amico, *Roman and German Humanism, 1450–1550*, ed. Paul F. Grendler (Aldershot, 1993), X, p. 257, XI, p. 58, XII, pp. 28–29, 32. For this edition, including the owners of the surviving copies, see Gregorio Piaia, *Marsilio da Padova nella Riforma e nella Contrariforma: Fortuna ed interpretazioni* (Padua, 1977), pp. 7–77, 421–35.

²⁰ Marsilius of Padua, *Defensor pacis*, pp. lxvi–lxix; Sullivan, “Marsiglio of Padua and William of Ockham II,” pp. 603–04.

²¹ On Lutheran connections to these later editions, see Piaia, *Marsilio da Padova nella Riforma e nella Contrariforma*, pp. 79–101.

²² The diffusion of *De translatione* is tied not just to the Reformation but also to Hapsburg quarrels with the papacy; see Piaia, *Marsilio da Padova nella Riforma e nella Contrariforma*, pp. 101–09.

²³ Marsilius of Padua, *Oeuvres mineures*, pp. 64–72.

²⁴ Melchior Goldast ed., *Monarchia s. Romani imperii...*, vol. 2 (Frankfurt, 1615; repr. Graz, 1960), pp. 1383–91. The *De translatione* appears at pp. 147–53; the *Defensor pacis*, at pp. 154–312.

²⁵ E.g., Peter Heylyn, *Theologia veterum, or, The summe of Christian theologie, positive, polemical, and philological, contained in the Apostles creed, or reducible to it according to the tendries of the antients both Greeks and Latines: in three books / by Peter Heylyn* (London, 1654), p. 397.

did not appear entire, he appeared occasionally excerpted.²⁶ By 1559, “Marsilius de Padua” was on the *Index librorum prohibitorum* issued in Rome together with Lorenzo Valla’s attack on the Donation of Constantine, “Ioannes Vuiclephus” and other authors.²⁷

The *Defensor pacis* also was translated into the vernacular. Early versions in French and German are lost. Both were done in the later fourteenth century.²⁸ Other versions date after the beginning of the Reformation. An English translation, done for Thomas Cromwell by William Marshall, appeared in London in 1535. This translation was carefully edited to remove any appearance of undermining King Henry VIII by favoring popular sovereignty.²⁹ It may have been this version Thomas Starkey meant Reginald Pole to read, despite its “crude style,”

²⁶ See William Prynne, *A quench-coale. Or A briefe disquisition and inquirie, in vvhat place of the church or chancell the Lords-table ought to be situated, especially vvhen the Sacrament is administered? Wherein is evidently proved, that the Lords-table ought to be placed in the midst of the church, chancell, or quire north and south, not altar-wise, with one side against the wall: that it neither is nor ought to be stiled an altar; that Christians have no other altar but Christ alone, who hath abolished all other altars, which are either heathenish, Jewish, or popish, and not tollerable among Christians. All the pretences, authorities, arguments of Mr. Richard Shelford, Edmond Reeve, Dr. John Pocklington, and a late Coale from the altar, to the contrary in defence of altars, calling the Lords-table an altar, or placing it altarwise, are here likewise fully answered and proved to be vaine or forged. By a well-wisher to the truth of God, and the Church of England* (Amsterdam, 1637), p. 349 (from *Defensor pacis*, II.xxviii); Edward Bulkley, *Speculum ecclesiae pontificiae: Nicolaus Clemangis Archidiaconus Baiocensis, Doctor S. Theologiae Parisiensis, de corrupto Ecclesiae statu. Huic accesserunt duae eiusdem epistolae super materia Concilij generalis: tractatus Petri de Aliaco Cardinalis Cameracensis, de reformatione Ecclesiae Concilio Constatiensi oblatas, alia[que] ex D. Gersono, Bernardo, Iohanne Sarisburiensi Episcopo Carnotensi, Marsilio Patauino, Aluaro Pelagio Episcopo Syluensi, Theodorico de Niem Espicopo Verdensi, & alijs, eiusdem argumenti ad detegendam Ecclesiae pontifici[a]e foeditatem, collecta & edita opera & studio Edvvardi Bulkley S. Theologiae Doctoris* (London, 1606), pp. 226–31 (from *Defensor pacis*, II.x).

²⁷ See <http://www.aloha.net/~mikesch/ILP-1559.htm>.

²⁸ Marsilius of Padua, *Defensor pacis*, p. lxix.

²⁹ *The Defense of Peace* (London, 1535). On its editing, see John Guy, “The Henrician Age,” in *The Varieties of British Political Thought, 1500–1800*, ed. J.G.A. Pocock (Cambridge, 1993), pp. 13–46 at p. 28. Marshall later complained that the book sold poorly, although “the best book in English” against the papacy; see Alec Ryrie, “Marshall, William (d. 1540?),” in *Oxford Dictionary of National Biography* (Oxford, 2004), <http://www.oxforddnb.com/view/article/18153>, accessed 30 Aug. 2005. On Cromwell’s investment of money in this project, see Quentin Skinner, *The Foundations of Modern Political Thought*, 2 vols (Cambridge, 1978), 2:101. See also Piaia, *Marsilio da Padova nella Riforma e nella Contrariforma*, pp. 143–66.

for proof that Jesus left the governance of the earth to “worldly policy.”³⁰ Otherwise there is little but vague argument from similar ideas to suggest that Marsilius was read by other Henrician polemicists, especially in English.³¹ Only one later author, Richard Cosin, writing in the reign of Elizabeth I, clearly mentions Marshall’s translation, referring to it as decorated with the arms of the queen’s parents.³² (One of Cromwell’s agents reported that a monastery returned the copies sent to it and that a recipient burned his copy. The agent suggested that Cromwell might want to attend to these persons at a future date.)³³ The *Defensor* appeared in an attenuated German version, lacking Dictio I with its philosophical discussion of government and frequently abridging or paraphrasing the text of Dictio II, a decade later.³⁴

³⁰ *The Correspondence of Reginald Pole*, ed. Thomas F. Mayer, 3 vols (Aldershot, 2002), 1:83–84. Starkey, however, seems to have made little, if any, use of Marsilius; see Thomas F. Mayer, “Thomas Starkey, an Unknown Conciliarist at the Court of Henry VIII,” *Journal of the History of Ideas* 49 (1988), 207–27.

³¹ Opinion now leans against Christopher St Germain having read Marsilius, at least in translation; see *The Complete Works of St Thomas More*, 15 vols (New Haven, 1963–), 9:xlvi–xlix; and Francis Oakley, “Conciliarism in England: St Germain, Starkey and the Marsiglian Myth,” in *Reform and Renewal in the Middle Ages and the Renaissance: Studies in Honor of Louis Pascoe, s.j.*, ed. Thomas M. Izbicki and Christopher M. Bellitto (Leiden, 2000), pp. 224–39. For a suggestion that Thomas Cranmer used Marsilius, see C.W. Previté-Orton, “Marsilius of Padua,” *Proceedings of the British Academy* 21 (1935), 137–83, at pp. 163–65. On other possible uses of Marsilius in the Henrician age, see Piaia, *Marsilio da Padova nella Riforma e nella Contrariforma*, pp. 171–206.

³² Richard Cosin, *An apologie for sundrie proceedings by iurisdiction ecclesiasticall, of late times by some chalenged, and also diuersly by them impugned By which apologie (in their seuerall due places) all the reasons and allegations set downe as well in a treatise, as in certaine notes (that goe from hand to hand) both against proceeding ex officio, and against oaths ministred to parties in causes criminall; are also examined and answered: vpon that occasion lately reuiewed, and much enlarged about the first priuate proiect, and now published, being diuided into three partes: the first part whereof chieflie sheweth what matters be incident to ecclesiasticall conisance; and so allowed by statutes and common law: the second treateth (for the most part) of the two wayes of proceeding in causes criminal... the third concerneth oaths in generall... Whereunto... I haue presumed to adioine that right excellent and sound determination (concerning oaths) which was made by M. Lancelot Androvves...* (London, 1593), p. 108.

³³ David S. Kastan, “‘Holy Wurdes’ and ‘Slypper Wit’: John Bale’s *King Johan* and the Poetics of Propaganda,” in *Rethinking the Henrician Era: Essays on Early Tudor Texts and Contexts*, ed. Peter C. Herman (Urbana, IL, 1994), pp. 267–82 at pp. 281–82, note 33.

³⁴ *Ain kurtzer Auszug des treffenlichen Wercks vnd Fridschirmbüchs* (Nebvbrgi Danybii, 1545). Piaia, *Marsilio da Padova nella Riforma e nella Contrariforma*, pp. 79–91. The author is grateful to Professor Bettina Koch for observations about this translation.

Paris is the most likely place to find early evidence of Marsilian influence. The court of Charles V showed interest in political thought,³⁵ and the university was a seat of writings about the Great Schism. There is consensus that Marsilius was used by the author of the *Somnium viridarii* (c. 1376). This dialogue between a cleric and a knight, based on a polemical work from the quarrel of Philip IV of France and Pope Boniface VIII, advanced royalist opinions on the relationship of papal power to lay regimes. The Latin version, a patchwork quilt of paraphrases of earlier works, made considerable use of the *Defensor pacis*. This is particularly true in Book I, which draws on Marsilius to argue that Christ did not give Peter political power over rulers (see Book I, LVI, which draws on Dictio II).³⁶ The French version of the text, *Le songe du vergier*, likewise reveals the author's knowledge of the *Defensor pacis*. The resemblance was clear enough for an Oxford catalog of the early seventeenth century to attribute the French text to Marsilius.³⁷

The exact depth of Nicole Oresme's debt to Marsilius is more difficult to determine. Oresme was a Parisian academic and a political adviser of Charles V. He made a clear reference in his *Le livre de Politiques d'Aristote* to the *Defensor pacis* in order to reject its potential for anti-royal polemic. Oresme argued that (*pace* Marsilius) monarchy was the best government of worldly regimes. Citing the *Defensor pacis* by title, he attributed to Marsilius the opinion that "the multitude should have dominion over the greatest and best persons" (translation mine). He also cited the *Defensor* for its opinion that "human positive laws should be made, promulgated, corrected or changed by the authority and consent of all the community or the most worthwhile (*vaillant*) part of it" (translation mine).³⁸ The possibility exists that Oresme also

³⁵ Claire Richter Sherman, *Imaging Aristotle: Verbal and Visual Representation in Fourteenth-Century France* (Berkeley, 1995).

³⁶ *Somnium viridarii*, ed. Marion Schnerb-Lièvre, 2 vols (Paris, 1993), 1:xxix, 2:535–36.

³⁷ *Le songe du vergier*, ed. Marion Schnerb-Lièvre, 2 vols (Paris, 1982), 1:xliv, xlv–xlix, lxxix.

³⁸ *Maistre Nicole Oresme: Le Livre de Politiques d'Aristote. Published from the Text of the Avranches Manuscript 223*, ed. Albert Douglas Menut, Transactions of the American Philosophical Society, New Ser. 60, No. 6 (Philadelphia, 1970), pp. 1–392 at p. 137. See also Susan M. Babbitt, *Oresme's Livre de Politiques and the France of Charles V*, Transactions of the American Philosophical Society, New Ser. 75, No. 1 (Philadelphia, 1985).

used Marsilius in his argument for reform of the Church,³⁹ but this remains to be demonstrated. (Christine de Pisan, although she knew Oresme's *Livre de Politiques*, did not take up the idea of legislation by the community.)⁴⁰

The Great Schism, with rival popes in Rome and Avignon, divided Christendom. Efforts at unification through armed force or negotiated compromise failed, and conciliar theories arose, employing philosophy, theology, and law to find a solution to the Schism.⁴¹ Scholars have been quick to find, even without evidence, Marsilian elements in conciliar theory.⁴² The extent to which this is a recycled papalist critique of conciliarism will be examined below. Actual evidence is lacking for use of the *Defensor pacis*, except in a few cases. We should note here, however, that the earliest conciliarists, Henry of Langenstein and Conrad of Gelnhausen, cannot be found using Marsilius. Nor can Pierre d'Ailly be shown to have known directly the *Defensor pacis* or other Marsilian works.⁴³

Jean Gerson has been described as influenced by Marsilius.⁴⁴ Gerson certainly knew something about Marsilius, but he rejected the Paduan's teachings (which he may have known only from John XXII's condemnation of them).⁴⁵ This disagreement was noted by Richard

³⁹ Cary J. Nederman, "A Heretic Hiding in Plain Sight: The Secret History of Marsiglio of Padua's *Defensor pacis* in the Thought of Nicole Oresme," in *Heresy in Transition: Transforming Ideas of Heresy in Medieval and Early Modern Europe*, ed. Ian Hunter, John Christian Laursen, and Cary J. Nederman (Aldershot, 2005), pp. 71–88.

⁴⁰ Kate L. Forhan, *The Political Theory of Christine de Pisan* (Aldershot, 2002), pp. 95–96.

⁴¹ Canon law is emphasized in Tierney's *Foundations of the Conciliar Theory*; more emphasis is put on theology by Francis Oakley in *The Conciliarist Tradition* and other works.

⁴² For older arguments for Marsilian influence, see *Advocates of Reform from Wyclif to Erasmus*, ed. Matthew Spinka (Philadelphia, 1953); Walter Ullmann, *The Origins of the Great Schism: A Study in Fourteenth-Century Ecclesiastical History* (Hamden, CT, 1972). The paucity of Marsilian borrowings should not make all conciliarists look like conservatives; see Francis Oakley, "Natural Law, the *Corpus mysticum*, and Consent in Conciliar Thought from John of Paris to Matthias Ugonis," *Speculum* 56 (1981), 786–810 at pp. 793–94.

⁴³ Francis Oakley, *Political Thought of Pierre d'Ailly*, pp. 205–06, denies there are even "unidentified borrowings" from Marsilius in d'Ailly's works. Oakley also denies (*pace* Victor Martin) that d'Ailly wrote to contradict Marsilius.

⁴⁴ For a critique of this opinion, see G.H.M. Posthumus Meyjes, *Jean Gerson—Apostle of Unity: His Church Politics and Ecclesiology* (Leiden, 1999), pp. 342–48.

⁴⁵ Gerson quoted John XXII's condemnation of Marsilius verbatim in *De jurisdictione spirituali et temporalis*; see the edition in G.H.M. Posthumus Meyjes, *Jean*

Field in the seventeenth century. Field was aware of Gerson's rejection of Marsilius in *De auferabilitate sponsi ab ecclesia*.⁴⁶ In that work Gerson defended the monarchical constitution of the Church, although within limits; and he dismissed Marsilius and his ilk, who thought the ecclesiastical constitution mutable, as heretics.⁴⁷ Gerson also rejected Marsilius' contention that the Church was confined to purely spiritual matters, leaving the rest to rulers.⁴⁸

A clearer case can be made for Dietrich of Niem. Dietrich had served in the curia of the Roman claimants to the papacy, and he grew alienated by what he saw around him. This alienation is reflected in Dietrich's writings on the Schism and reform.⁴⁹ Among the sources Dietrich drew upon in his writings was Marsilius. Like other polemicists, Dietrich made use of other authors' works; but the *De modis uniendi et reformandi ecclesiam in concilio universali*, like the *Capitula agendorum in concilio generalis Constantiensi*, which is derived from it, used the *Defensor pacis* to denounce corruption in the Church.⁵⁰ Dietrich called Marsilius "a great theologian" (*magnus theologus*) but without naming him.⁵¹ Hermann Heimpel has traced the Marsilian echoes in Dietrich's works. We should keep in mind, however, as Heimpel did, that Dietrich was more venting his spleen, based on experiences in the Roman curia, than issuing theoretical pronouncements on the nature of the Church.⁵²

Gerson et l'assemblée de Vincennes (1329): ses conceptions de la juridiction temporelle de l'Église, accompagné d'une éd. critique du *De jurisdictione spirituali et temporalis* (Leiden, 1978), pp. 127, 128. This source, not Ockham's *Dialogus*, explains how Gerson became acquainted with the Paduan, *pace* John B. Morrall, *Gerson and the Great Schism* (Manchester, 1960), p. 120.

⁴⁶ Richard Field, *Of the Church fiue bookes. By Richard Field Doctor of Diuinity and sometimes Deane of Glocester* (Oxford, 1628), p. 798.

⁴⁷ Jean Gerson, *Oeuvres complètes*, ed. Palémon Glorieux, 10 vols (Paris: Desclée, 1960–), 3:298–99; Victor Martin, *Les origines du Gallicanisme*, 2 vols (Paris: Boud & Gay, 1939), 2:135–36.

⁴⁸ See the sermon *Pax hominibus* in Gerson, *Oeuvres complètes*, 7:770; Posthumus Meyjes, *Jean Gerson*, p. 347.

⁴⁹ E.F. Jacob, *Essays in the Conciliar Epoch*, 3rd ed. (Manchester, 1963), pp. 24–43.

⁵⁰ See the parallel texts in *Dialog über Union und Reform der Kirche 1410 (De modis uniendi et reformandi ecclesiam in concilio universali)*, ed. Hermann Heimpel (Leipzig, 1933), p. 21.

⁵¹ Heimpel, *Dialog über Union und Reform der Kirche*, p. 61.

⁵² Hermann Heimpel, *Dietrich von Niem (c. 1340–1418)* (Münster, 1932), esp. p. 47. See also Philip H. Stump, *The Reforms of the Council of Constance (1414–1418)* (Leiden, 1994), p. 7.

Beginning with certain Anglican apologists, John Wyclif has been described as influenced by Marsilius.⁵³ It is true that Wyclif was condemned by Pope Gregory XI in 1377, in part for being a follower of Marsilius “of damned memory” in his attack on the coercive powers of the clergy.⁵⁴ However, there is no firm evidence of such an influence on Wyclif. Thomas Netter, writing in England, did not denounce Marsilius for influencing the Lollards; and he mentioned Ockham only briefly.⁵⁵ One of Wyclif’s editors does point to a parallel between his thought on Peter and the keys and that of Marsilius;⁵⁶ but there is no clear evidence of borrowing. Nor, despite suggestions by scholars,⁵⁷ is there evidence of the use of Marsilius by John Hus. Here, too, English Protestant apologists connected the Paduan with other foes of Rome with no solid backing.⁵⁸

After the solution of the Schism, issues of reform pushed the Council of Basel into open confrontation with Pope Eugenius IV. Of the conciliar theorists of the day, only Nicholas of Cusa seems to have made use of Marsilius’ *Defensor pacis*. This use is acknowledged in a limited fashion in Cusanus’ *De concordantia catholica*. Nicholas said

⁵³ James Thomas, *An apologie for Iohn Wickliffe shewing his conformitie with the now Church of England; with answeare to such slaunderous obiections, as haue beene lately vrge against him by Father Parsons, the apologists, and others. Collected chiefly out of diuerse works of his in written hand, by Gods especiaall providence remaining in the publike library at Oxford, of the honorable foundation of Sr. Thomas Bodley Knight: by Thomas James keeper of the same* (Oxford, 1608), fol. [K4r], emphasizing Ockham more than Marsilius; Henry Hickman, *Historia quinq-articularis exarticulata, or, Animadversions on Doctor Heylin’s quintquarticular history by Henry Hickman* (London, 1674), p. 145, citing Gregory XI’s bull of condemnation.

⁵⁴ J.N. Figgis, *Political Thought from Gerson to Grotius: 1414–1625* (New York, 1960), pp. 33–34; George H. Sabine, *A History of Political Thought*, 3rd ed. (New York, 1966), p. 314.

⁵⁵ *Doctrinale antiquitatum fidei catholicae ecclesiae...*, 3 vols (Venice and Farnborough, 1967), 1:666, accusing Wyclif of following Ockham like a dog following its errant master in preferring the lay legislator to the pope. Wyclif did mention Ockham in *De ordinatione fratrum*; see *John Wyclif’s Polemical Works in Latin...*, ed. Rudolf Buddensieg, 2 vols (London, 1883), 1:92, 94 as an exponent of the Franciscan ideal.

⁵⁶ *Iohannis Wyclif tractatus de civili dominio liber primus*, ed. Reginald Lane Poole (London, 1885), p. 281.

⁵⁷ See, for example, Previté-Orton, “Marsilius of Padua,” p. 163. The arguments tend to turn on vague resemblances, e.g., *Magistri Iohannis Hus tractatus de ecclesia*, ed. S. Harrison Thomson (Cambridge, 1966), p. 1, note 3.

⁵⁸ See the marginal note in John Bale, *The image of both Churches after the most wonderfull and heavenly Reuelation of saint Iohn the Euangelist, contayning a very fruitfull exposition or paraphrase vpon the same. Wherin it is conferred vvith the other scriptures, and most auctorised histories. Compyled by Iohn Bale an exyle also in thys lyfe, for the faithfull testimony of Iesu* (London, 1570), fol. 75v.

that he encountered “a certain Marsilius of Padua” after writing his *De concordantia catholica*. He referred to the denial in Dictio II of the *Defensor pacis* that Peter can be proven to have been in Rome and offered a refutation. Cusanus also argued that the opinion that Christ established the primacy in the Church is more likely to be true than was the contrary opinion of Marsilius. He did, however, argue that the papacy’s coercive power was mediated to it by the Church.⁵⁹ The question persists, however, whether Marsilius exerted a larger influence on Cusanus’ political thought.⁶⁰ Nicholas may have known the *Defensor*, but he might have misunderstood or even deliberately misstated it in an effort to buttress his own opinions while defusing any problems his citing a condemned author might have caused.⁶¹ The possibility also exists that Marsilius and Cusanus simply employed the same version of Aristotle’s *Politics*, creating an impression of borrowing by the later writer from the earlier one.⁶²

Papalist responses to Cusanus and other conciliar apologists eventually brought Marsilius forward as a supposed source of the errors of the Council of Basel. The *Defensor pacis* was known in Rome in the time of Cusanus, but it was cited by Lorenzo of Arezzo as a work by Ockham. Since there are manuscripts attributing the *Defensor* to Ockham, we can only suppose that Lorenzo knew one of them.⁶³

More important for the future reputations of both Basel and Marsilius is the work of Juan de Torquemada. Torquemada’s awareness of Marsilius is important for his influence on later papalists in their attacks on foes of the papacy. But we must determine whether he read the *Defensor pacis* or only references to it. In Book IV of his *Summa de ecclesia*, Torquemada, the leading papal apologist of his day, listed the

⁵⁹ Nicolai de Cusa opera omnia, vol. 14, pt. 2, ed. Gerhard Kallen (Hamburg, 1965), pp. 290–307: Bk. II, c. 34. This chapter is called an Epilogue in the English translation; see Nicholas of Cusa, *The Catholic Concordance*, trans. Paul Sigmund (Cambridge, 1991), pp. 192–204. This discussion is misstated in Antony Black, *Political Thought in Europe 1250–1450* (Cambridge, 1992), pp. 178–79.

⁶⁰ Paul Sigmund, “The Influence of Marsilius of Padua on XVth-Century Conciliarism,” *Journal of the History of Ideas* 23 (1962), 392–402; Piaia, *Marsiglio e dintorni*, pp. 202–19.

⁶¹ Cary J. Nederman, “Rhetoric, Reason and Republic: Republicanisms—Ancient, Medieval and Modern,” in James Hankins ed., *Renaissance Civic Humanism* (Cambridge, 2000), pp. 259–62.

⁶² The author owes this observation to Professor J.H. Burns.

⁶³ Anton-Hermann Chroust and James A. Corbett, “The Fifteenth Century Review of Politics of Laurentius of Arezzo,” *Mediaeval Studies* 11 (1949), 62–76 at pp. 63, 66.

heretics who had beset the Church and enumerated their errors. His treatment of the errors of Marsilius and John of Jandun in Book IV, Part 2 is based entirely on the decree *Licet*, but it divides the five propositions condemned by Pope John XXII into seven. Just as in the decree of John XXII, the focus is on propositions drawn from Dictio II.⁶⁴ Torquemada made occasional mention of Marsilius in the second book of his *Summa* and once in the third book. These references are part of an effort to identify conciliarism with older errors.⁶⁵ Marsilius was cited for his claim that Constantine bestowed the primacy upon the Roman pontiff (Bk. II c. 42). Torquemada referenced *Licet iuxta doctrinam* in his defense of the coercive power of the pope over believers (Bk. II c. 46) and claimed to have refuted the *error Marisilii de Padua damnatissimus* (Bk. II c. 47).⁶⁶ Marsilius also was “confounded” for his “error and stupidity” in Torquemada’s argument that the pope alone had plenitude of power.⁶⁷ Torquemada specifically blamed Marsilius (Bk. III c. 38) for the belief that a general council, representing the corporation of the faithful and making no distinction between clergy and laity, could exercise ecclesiastical power “in the provision of benefices and dispensations and indulgences and in the correction of anyone who errs.”⁶⁸

Torquemada’s condemnation of conciliarism as partly Marsilian did not become predominant overnight, but it found adherents in Rome. Teodoro Lelli, one of the younger curialists of his day, can be found repeating this charge in reply to Diether von Isenberg’s appeal to a general council against the hostile policies of Pope Pius II (1458–64) and a defense of the appeal by Gregor Heimberg. Lelli accused Marsilius and John of Jandun of imbibing the Greek error of denying papal primary. He quoted Dictio II, 28, which denied that Peter, and therefore the pope, was divinely instituted as head of the Church.⁶⁹

⁶⁴ *Summa de ecclesia*, fol. 409r–v: Bk. IV, pt. 2, c. 37. This text appears as an Appendix to the present chapter.

⁶⁵ Oakley, *The Conciliarist Tradition*, pp. 100–05.

⁶⁶ *Summa de ecclesia*, fols 155v, 159r, 161v. The last mentioned gives a slightly different version of the seventh error of Marsilius than that quoted in the Appendix.

⁶⁷ *Summa de ecclesia*, fol. 169v. This chapter is excerpted in Antony Black, *Monarchy and Community: Political Ideas in the Later Conciliar Controversy 1430–1450* (Cambridge, 1970), pp. 166–67.

⁶⁸ *Summa de ecclesia*, fol. 320r–v.

⁶⁹ Heiko A. Oberman, Daniel E. Zerfoss, and William J. Courtenay, eds, *Defensorium obedientiae apostolicae et alia documenta* (Cambridge, MA, 1968), pp. 344–45.

Domenico Jacobazzi made a similar accusation against Marsilius, noting his condemnation for denying that the pope is head of the universal Church.⁷⁰

Marsilius becomes more visible in the sixteenth century. Even then there is a geography to his reception. Italy shows little evidence of Marsilian texts being employed by foes of the papacy. Even Machiavelli, although he had opinions that occasionally resemble those of Marsilius,⁷¹ shows no clear evidence of using the *Defensor pacis*. Marsilius seems to have been largely absent from Italian political thought in the sixteenth century,⁷² but he reemerged in the early seventeenth century. One of the most eccentric political writers of the time was Tommaso Campanella, who had grown up in the shadow of imperial Spain. This Neapolitan Dominican wrote a defense of papal theocracy. In it, he named among the heretics who opposed the papacy Wyclif, Hus, and Marsilius, along with the Waldensians. They erred, he said, trying to make the pope a mere “curate,” preacher, and minister of the sacraments.⁷³ Marsilian influences, similar to those ascribed to Gallican writers, have been suggested for the writings of defenders of Venice at the time of the interdict imposed by Pope Paul V in 1606.⁷⁴ Later Italian writers who showed Marsilian influences lie outside the scope of this brief study.⁷⁵ Suffice it to say that critics of the papacy could be tarred with the Marsilian brush by eighteenth-century polemicists.⁷⁶

Marsilius makes an actual appearance in the quarrels between the papacy and the University of Paris in the early sixteenth century. Parisian theologians were among the leading apologists for

⁷⁰ *Bibliotheca maxima pontificia*, ed. Juan Tomás de Rocaberti de Perelada, 21 vols (Rome, 1697–99), 9:512; Josef Klotzner, *Kardinal Dominicus Jacobazzi und sein Konzilwerk: Ein Betrag zur Geschichte der konziliaren Idee* (Rome, 1948). Rocaberti also reprinted the attacks of Alvarus Pelagius, Torquemada, Pighius, and Suarez on Marsilius.

⁷¹ Antonio Toscano, *Marsilio da Padova e Niccolò Machiavelli* (Ravenna, 1981).

⁷² See, however, the anti-Marsilian work of Cornelio Musso; cf. Piaia, *Marsilio e dintorni*, pp. 249–63.

⁷³ Tommaso Campanella, *La monarchia del messia*, ed. Vittorio Frajese (Rome, 1995), p. 72. Campanella also referred to Marsilius as erring in his interpretation of Christ’s paying the tribute money; see *La monarchia*, p. 118 and John M. Headley, *Tommaso Campanella and the Transformation of the World* (Princeton, 1997), p. 267.

⁷⁴ Piaia, *Marsilio da Padova nella Riforma e nella Contrariforma*, pp. 365–403.

⁷⁵ Piaia, *Marsilio e dintorni*, pp. 328–87.

⁷⁶ Valerio Vianello, *La scrittura del rovesciamento e la metamorfosi del genere: Paolo Sarpi tra retorica e storiografia* (Fasano, 2005), pp. 133–34.

the Council of Pisa that Louis XII of France and a handful of dissident cardinals called in 1511 to punish Pope Julius II for a variety of "offenses." Julius responded in 1512 by summoning the Fifth Lateran Council. The resulting conflict of councils and their apologists, arguing whether a general council could judge a legitimate pope, led to an exchange between Thomas de Vio (Cajetan), the Master General of the Dominican Order, and Jacques Almain, a young but distinguished theologian of the Sorbonne. John Major, Almain's teacher, later answered Cajetan.⁷⁷ Marsilius appears twice in this context. In one instance, Almain accused Marsilius of falling into error when he took away coercive power from the clergy.⁷⁸ Almain, however, cited Ockham (!), Marsilius, and Cusanus, among others, as believing that the Church's infallibility passed to the council as its representative.⁷⁹ (Remarkably, Cajetan did not seize upon Almain's second reference to Marsilius.) Almain also offered a critique of Marsilius in his *Expositio circa decisiones magistri Guillelmi Occam super potestate supremi pontificis*. His discussion of ecclesiastical immunity from lay jurisdiction confronted Marsilius' opinion in Dictio II, 4 that clergy do not have such an exemption by divine law. Almain noted that Marsilius "greatly exalted the lay power," subjecting clerics to its coercion. His summary of Marsilius, which ignores the Aristotelian elements, pointed not just to clerics themselves but to their possessions as well possibly being subjected to lay jurisdiction, including through taxation. He quoted Gilles Carlier's defense of ecclesiastical property, delivered in reply to the Hussite delegation to the Council of Basel, as an opposite opinion.⁸⁰ Almain accepted Carlier's defense of clerical immunity as "more probable." He took the biblical texts Marsilius had quoted and interpreted them as meaning that Christ and the apostles were not subject *de iure* to the authority of the Roman emperors, although the Father permitted the Son to be judged by Pilate. Spiritual power was, he said, more

⁷⁷ Translations of these texts appear in J.H. Burns and Thomas M. Izbicki eds, *Conciliarism and Papalism* (Cambridge, 1997).

⁷⁸ *Conciliarism and Papalism*, p. 141; Jacques Almain, *Tractatus de auctoritate ecclesiae et conciliorum generalium adversus Thomas de Vio*, in Jean Gerson, *Opera omnia*, ed. Louis Ellies du Pin, 5 vols (Antwerp, 1706; repr. Hildesheim, 1987), 2:980, citing the *Defensor pacis* by title.

⁷⁹ *Conciliarism and Papalism*, p. 185; Almain, *Tractatus de auctoritate ecclesiae*, in Gerson, *Opera omnia*, 2:1004.

⁸⁰ Gerson, *Opera omnia*, 2:1037–38.

sublime than temporal power, not bound to obey it exactly as the laity was obligated.⁸¹

Gallicanism remained long after Almain's death, but it changed form. Issues of reform were abandoned to the prelates who tried to implement the decrees of the Council of Trent. Gallican scholars still clung to the belief that history exempted France from papal temporal power. A few of these writers showed some nodding acquaintance with Marsilius. Antoine Loisel, in the late sixteenth century, was at pains to distance himself from the Paduan, at least when discussing ecclesiastical ownership of temporal goods.⁸² Marsilian echoes can be heard, too, in the pleadings of Julien Peleus in a case involving a cleric's assault on a royal judge. Peleus tried to define clerical privilege narrowly by denying to the Church the temporal sword. Only the permission of princes safeguarded clerical privilege from judgment by lay courts.⁸³

While these issues were being fought out, others were becoming equally urgent. Marsilius surfaces briefly in the Spanish debate over legitimate dominion over the Indies. Francisco de Vitoria, in his first *Relectio de Indis*, seems to have made a vague reference to the *Defensor pacis*, along with the works of Wyclif and Richard FitzRalph, when denying that dominion over temporal goods, especially the properties held by Native Americans, depended upon being in a state of grace.⁸⁴ In his first *Relectio de potestate ecclesiastica*, Vitoria resorted to Torquemada's *Summa* and John XXII's condemnation of Marsilian arguments to refute Marsilius when discussing clerical liberties. This leading light of Salamanca argued that some immunities were founded on divine law, not just on grants by the secular power.⁸⁵

⁸¹ Gerson, *Opera omnia*, 2:1039–40. Almain's relationship to Marsilius is misstated by Skinner, *Foundations*, 2:118. See, however, Francis Oakley, "Conciliarism in the Sixteenth Century: Jacques Almain Again," *Archiv für Reformationsgeschichte* 68 (1977), 111–32.

⁸² Jotham Parsons, *The Church in the Republic: Gallicanism & Political Ideology in Renaissance France* (Washington, DC, 2004), p. 122, note 72.

⁸³ Parsons, *The Church in the Republic*, p. 161.

⁸⁴ *Francisci de Vitoria de Indis et De iure belli relectiones*, ed. Ernest Nys (Washington, DC, 1917), p. 223: "Eadem fuit sententia Armachani, lib. 10, *De quaestionibus Armenorum*, cap. 4, et in Dialogo, *Defensorium pacis*." Vitoria may have confused Marsilius' work with Ockham's *Dialogus* in this passage. The reading Nys used is debatable; see Vitoria, *Political Writings*, trans. Jeremy Lawrence (Cambridge, 1991), p. 240, note 15.

⁸⁵ Vitoria, *Political Writings*, pp. 101–08, esp. p. 108, which uses Errors 1, 3, 4, and 5 from *Licet iuxta doctrinam*.

Marsilius also was used by Martin Luther's foes as a club with which to beat him. There is no secure evidence beyond general similarities of ideas⁸⁶ that Luther knew Marsilius' works. Catholic apologists, however, occasionally accused Luther of depending on Marsilius. Most important of these was Albertus Pighius, who did more than tar the Protestants with the brush of Marsilian error. His discussion of papal temporal power engaged the *Defensor pacis* in depth. Pighius described Marsilius as more diligent, vehement, and copious in promoting the secular power at the expense of the ecclesiastical.⁸⁷ Unlike other papalists, and Gerson, Pighius took into account the Aristotelian elements in the Paduan's thought. He accused Marsilius of being "a man more Aristotelian than Christian." Marsilius also was accused of trying to erect a new hierarchy on the basis of his own understanding of Scripture and the Fathers.⁸⁸ Looking at the diffusion of the *Defensor pacis*, Pighius accused the Lutherans of producing elegant printed editions to put into the hands of the faithful.⁸⁹ Pighius also sketched out the structure of the *Defensor* before setting about to refute it.⁹⁰ Pighius summarized Marsilius as saying that no priest or bishop had power apart from the administration of the sacraments and that all clerics were subject to the secular power, just as the laity was.⁹¹ He was equally clear on Marsilius' having denied coercive power over persons and things to any priest or bishop, including the pope.⁹² Christ was asserted, in this summary of the *Defensor pacis*, to have instituted no power to command, superiority, or coercive power in the Church.⁹³ In his extensive refutation, too long to give in detail, Pighius was able to appeal to the authority of Jean Gerson, not just of papalist writers,

⁸⁶ See, for example, Stephen F. Torracco, *Priests as Physicians of Souls in Marsilius of Padua's Defensor pacis* (San Francisco, 1992), pp. 470–71. This controversy is reviewed by Piaia, *Marsilio da Padova nella Riforma e nella Contrariforma*, pp. 122–41. A Lutheran jurist, Theodorus Reinking, did use the *Defensor*; see Piaia, *Marsilio da Padova nella Riforma e nella Contrariforma*, pp. 109–22.

⁸⁷ Albertus Pighius, *Hierarchiae ecclesiasticae assertio libris sex comprehensa...* (Cologne, 1672), p. 288; Piaia, *Marsilio da Padova nella Riforma e nella Contrariforma*, pp. 293–322 [hereafter *Assertio*].

⁸⁸ Pighius, *Assertio*, p. 288: "Fuit homo Aristotelicus magis, q[uam] Christianus..."

⁸⁹ Pighius, *Assertio*, p. 288.

⁹⁰ Pighius, *Assertio*, p. 289.

⁹¹ Pighius, *Assertio*, p. 289: "Breuiter, sacerdotes & episcopos, nudos esse sacrorum ministros, seculari potestati in omnibus aequè subiectos vt laicos."

⁹² Pighius, *Assertio*, p. 289.

⁹³ Pighius, *Assertio*, p. 290.

to support his defense of clerical power.⁹⁴ Pighius also cited Aristotle, alongside Christian writers, to make one of his key points, that a multitude was unable to transfer power to its chosen ministers.⁹⁵ This refutation also turned Marsilius on his head, saying the multitude within the Church had to be subject “to the authority and jurisdiction of the ruling part.”⁹⁶ Peace and unity within the Church, Pighius maintained, had to be guarded by the one to whom correction belonged, the one who presided over it.⁹⁷ Christ had established a hierarchical order with the pope at its vertex.⁹⁸ The multitude was too inept to play the role of head, unifying and pacifying.⁹⁹ Nor was the visible head of the body subject to correction by the multitude or its representative. That belonged to Christ alone.¹⁰⁰ The Church’s children were not granted the authority to rebel against the magistracy that Christ instituted in Peter.¹⁰¹

Other polemicists of the Counter-Reformation who made similar accusations of Marsilian influence include Andreas Lao, Antonius Floribellus, Antonius Paulutius, Christianus Lupus, Dominicus de Sanctissima Trinitate, and Marcus Antonius Cappelli.¹⁰² Also worth mentioning in this context are Bartolomeo Guidiccioni, Bernardus Lutzenburg, Nicholas Sanders, Domenico Bernini, Juan Azor (Azorius), and Francesco Peña. Blaming Marsilius for later errors had become a much-used club with which Catholics could beat Protestants.¹⁰³ While

⁹⁴ Pighius, *Assertio*, p. 294.

⁹⁵ Pighius, *Assertio*, p. 295; see Alan Gewirth, *Marsilius of Padua and Medieval Political Philosophy* (New York, 1951), pp. 168, 254.

⁹⁶ Pighius, *Assertio*, p. 295: “... necesse est, vt tamquam eiusmodi subsint autoritati & iurisdictioni partis principantis in communitate ecclesiastica, vt cum Aristotelico loquar Aristotelice.”

⁹⁷ Pighius, *Assertio*, p. 296.

⁹⁸ Pighius, *Assertio*, p. 339.

⁹⁹ Pighius, *Assertio*, p. 297. The pope’s role was compared to that of the head in the body, providing motive force to the members; see Pighius, *Assertio*, p. 340.

¹⁰⁰ Pighius, *Assertio*, p. 304. For Pighius’ denial of this authority to a council called by the “human legislator,” see Pighius, *Assertio*, p. 338.

¹⁰¹ Pighius, *Assertio*, p. 308.

¹⁰² See Rocaberti, *Bibliotheca maxima pontificia*, 3:617, 4:245, 272–73, 6:437–38, 10:422, 16:6. Lao, a Carmelite, cited Torquemada’s summary of John XXII’s condemnation; Lupus quoted the *De concordantia catholica* of Cusanus in his refutation of the *friuolum somnium* of Marsilius. Paulutius, making a rare mention of Dictio I, called Marsilius the first of those who rigidly separated spiritual from temporal power; and Cappelli said the Paduan was the first in the West to deny Peter’s pontificate. He cited John XXIII’s condemnation and Pighius’ polemic, as well as accusing Wyclif of following Marsilius. Floribellus accused both Wyclif and Hus of following him.

¹⁰³ Piaia, *Marsilio da Padova nella Riforma e nella Contrariforma*, pp. 322–63.

these writers were focusing on Luther, they seem not to have looked closely at Ulric Zwingli and the other Zurich Protestants. Nor did they look very closely at the Calvinists, some of whose ideas were reflected in Huguenot arguments about resistance to royal power, when searching out Marsilian errors.¹⁰⁴

The Reformation spawned not just polemics but contending historiographies of the Church. The Lutheran historiography was created by the "Magdeburg Centuriators," led by Matthias Flacius Illyricus. In his *Catalogus testium veritatis*, Flacius devoted an extensive paragraph to Marsilius, plus a shorter one to John of Jandun. The sketch of Marsilius mentioned the *Defensor pacis*, a contracted version of which had been published recently, as a work concerned with "gratuitous justice," as well as the *De translatione Imperii*, published in Basel in 1555. Flacius extracted several points from the works of Marsilius. These can be summarized as:

- bishops and priests, even the pope, once were equals
- the pope is superior to none of these, let alone to Caesar and other rulers
- supreme judgment should follow Scripture
- learned and pious laymen can participate in Church councils
- the clergy, including the pope, should be subject to magistrates
- the Church is the *universitas fidelium*
- Christ, the head of the Church, made no one his vicar or pope
- a bishop is to be elected by his Church and its clergy
- the clergy can be permitted to marry
- Peter never was in Rome
- the papist "synagogue" is a den of thieves
- following the pope's teachings leads to damnation.¹⁰⁵

In the "Magdeburg Centuries," Flacius also appealed to Marsilius—with Valla, Cusanus, and other critics—in a refutation of the Donation of Constantine.¹⁰⁶ (The author has not seen *Antilogia papae: hoc est, De corrupto ecclesiae statutu & totius cleri papistici peruersitate*, ed. Wolfgang Wissenburg and Matthias Flacius Illyricus [Basel,

¹⁰⁴ Piaia, *Marsilio da Padova nella Riforma e nella Contrariforma*, pp. 229–70. A secure case of Marsilian influence can be found in the works of the renegade archbishop of Spalato, Marc'Antonio de Dominis; see Piaia, *Marsilio da Padova*, pp. 270–86.

¹⁰⁵ Matthias Flacius Illyricus, *Catalogus testium ueritatis*... (Strasbourg, 1562), p. 488. Flacius also mentions *Licet iuxta doctrinam*.

¹⁰⁶ Matthias Flacius Illyricus, *Historia ecclesiastica*..., 3 vols (Basel, 1624), 1:315–20; century 4, c. 7.

1555].)¹⁰⁷ The reply of Cardinal Baronius to the “Magdeburg Centuries” did not attack Marsilius directly, either in the context of the Donation of Constantine or that of the translation of the empire.¹⁰⁸ The continuations of Baronius by Bzovius and Rinaldi did include such attacks. The former included the chief points of condemnation from *Licet iuxta doctrinam*, yet another example of condemnation by those who had not read Marsilius.¹⁰⁹

Marsilius looms even larger in the polemics of Elizabethan and Jacobean England, and occasionally those of Scottish divines.¹¹⁰ Among the issues debated were the royal supremacy over the English Church, the oath of allegiance imposed on Catholics by King James I after the Gunpowder Plot was foiled, papal temporal power, and the validity of the Donation of Constantine.¹¹¹ The English divines created a history of papal error, although they disagreed on when Rome went wrong. Marsilius appears in this political scheme as one of many who opposed the papacy’s pretensions. Some of these writers used an apocalyptic scheme of history. John Bale placed Marsilius and other foes of John XXII in the reign of the locusts under Abaddon (Revelation 9:3). Marsilius and John of Jandun are described as lawyers who, together with Ockham and Michael of Cesena, emboldened Ludwig the Bavarian to resist the pope’s efforts to deprive him of his kingdom.¹¹² Thomas Brightman identified the Church of Thyatira in the book of Revelation 2:18 with

¹⁰⁷ This collection was republished by Simon Schard; see Piaia, *Marsilio da Padova nella Riforma e nella Contrariforma*, pp. 104–09.

¹⁰⁸ Cesare Baronio, *Annales ecclesiastici*, 12 vols in 6 (Cologne, 1624), 3:292–93, 10:930–41; Cyriac K. Pullapilly, *Caesar Baronius, Counterreformation Historian* (Notre Dame, IN, 1975).

¹⁰⁹ Piaia, *Marsilio da Padova nella Riforma e nella Contrariforma*, pp. 326–27, 363, note 159.

¹¹⁰ Piaia, *Marsilio da Padova nella Riforma e nella Contrariforma*, pp. 206–28.

¹¹¹ Peter Milward, *Religious Controversies of the Elizabethan Age: A Survey of Printed Sources* (Lincoln, NE, 1977) and *Religious Controversies of the Jacobean Age: A Survey of Printed Sources* (Lincoln, NE, 1978). On the continued importance of the Donation long after Lorenzo Valla demonstrated its falsity, see Robert Black, “The Donation of Constantine: A New Source or the Concept of the Renaissance,” in *Language and Images of Renaissance Italy*, ed. Alison Brown (Oxford, 1995), pp. 51–85.

¹¹² John Bale, *The pageant of popes contayninge the lyues of all the bishops of Rome, from the beginninge of them to the yeare of Grace 1555. Deuided into iii. sortes bishops, archbishops, and popes, vvhereof the two first are contayned in two bookes, and the third sort in fve. In the vvhich is manifestlye shevved the beginning of Antichriste and increasing to his fulnesse, and also the vvayning of his povver againe, accordinge to the prophcey of Iohn in the Apocalips... Written in Latin by Maister Bale, and now Englished with sondrye additions by I.S* (London, 1574), fol. 133v.

Dante, Marsilius, and other medieval opponents of the papacy, which was described by him as a Whore of Babylon.¹¹³ A later writer, the Presbyterian divine Samuel Rutherford, identified Marsilius and other servants of God who opposed the papacy with the angel flying in the midst of heaven with an eternal gospel to preach (Revelation 14:6).¹¹⁴

Other historical accounts used alternative historical schemes. John Foxe the martyrologist made frequent mention of Marsilius. He selected Marsilius as the precursor of the Reformation, who ushered in a new age of reform by focusing on defense of secular rulers against papal pretensions. Foxe did not value elected regimes, but Marsilius fit into his attack on Rome.¹¹⁵ More pedestrian are the schemes that were employed in seventeenth-century apologetics. Simon Birckbek simply placed Marsilius in the fourteenth century, an age in which (he says) learning began to revive. Here, as elsewhere, Marsilius and John of Jandun are placed alongside Michael of Cesena and Ockham as opponents of John XXII.¹¹⁶ Henry Wharton's late seventeenth-century edition of Reginald Pecock on the authority of Scripture alluded to

¹¹³ Thomas Brightman, *A revelation of the Apocalyps, that is, the Apocalyps of S. Iohn illustrated vvith an analysis & scolions where the sense is opened by the scripture, & the events of things foretold, shewed by histories. Hereunto is prefixed a generall view: and at the end of the 17. chapter, is inserted a refutation of R. Bellarmine touching Antichrist, in his 3. book of the B. of Rome. By Thomas Brightman* (Amsterdam, 1611), p. 64, referring to "Marsilius, Patativinus" and "John de Ganduno." See V.N. Olsen, *John Foxe and the Elizabethan Church* (Berkeley, 1973), p. 80.

¹¹⁴ Samuel Rutherford, *The due right of presbyteries, or, A peaceable plea for the government of the Church of Scotland... by Samuel Rutherford...* (London, 1644), pp. 296–97.

¹¹⁵ John Foxe, *Actes and monuments of matters most speciall and memorable, happening in the Church with an vniuersall history of the same, wherein is set forth at large the whole race and course of the Church, from the primitiue age to these latter tymes of ours, with the bloody times, horrible troubles, and great persecutions agaynst the true martyrs of Christ, sought and wrought as well by heathen emperours, as nowe lately practised by Romish prelates, especially in this realme of England and Scotland. Newly reuised and recognised, partly also augmented, and now the fourth time agayne published and recommended to the studious reader, by the author (through the helpe of Christ our Lord) Iohn Foxe, which desireth thee good reader to helpe him with thy prayer* (London, 1583), especially in the Dedication and the fifth book. Foxe also included Gregory XI's 1377 condemnation of Wyclif that identifies him with "the peruerse opinions, and vnlearned doctrine of Marcellus of Padua, & Iohn of Gandune, of vnworthy memory" (Olsen, *John Foxe*, pp. 179–81).

¹¹⁶ Simon Birckbek, *The Protestants evidence taken out of good records; shewing that for fiftene hundred yeares next after Christ, diuers worthy guides of Gods Church, have in sundry weightie poynts of religion, taught as the Church of England now doth: distributed into severall centuries, and opened, by Simon Birckbek...* (London, 1635), pp. 53–54.

Marsilius, out of temporal sequence, when starting his discussion of the authors of the fifteenth century.¹¹⁷

Polemics in which Marsilius was quoted or at least mentioned became frequent. Although most attention has been given to earlier periods,¹¹⁸ we can find Marsilius more openly mentioned in the Elizabethan and Jacobean than in the Henrician period. In several cases, Marsilius simply appears in lists of opponents of Rome. For example, John Jewel listed Marsilius, along with Lorenzo Valla, Petrarch, Savonarola, Joachim of Flora, and Bernard of Clairvaux, as men who lived in Rome and were loyal to the Church but who, seeing the errors that had crept in, wished to amend them.¹¹⁹ Lancelot Andrewes listed Dante, Ockham, and Marsilius among Catholic authors who did not believe the pope could absolve subjects from due obedience to rulers.¹²⁰ Thomas Bilson underlined the unjust condemnation by the papacy of Marsilius and other critics as heretics.¹²¹ Among the authors who presented similar lists, long or short, are William Fulke (1577 and 1581), Henoah Clapham (1609), and Edward Leigh (1663). Richard Baxter, drawing upon Goldast's *Monarchia*, linked Marsilius and Ockham with William Barclay and Roger Widdrington. He lamented that, alas, all came too late.¹²² The point of all these lists was, as the Scottish divine William Guild said, to use "their own most famous wryters,"

¹¹⁷ Reginald Pecock, *A treatise proving Scripture to be the rule of faith writ by Reginald Peacock... before the Reformation, about the year MCDL*, ed. Henry Wharton (London, 1688), p. xix.

¹¹⁸ E.g., Stefano Simonetta, *Marsiglio in Inghilterra: Stato e chiesa nel pensiero politico inglese fra XIV e XVII secolo* (Milan, 2000).

¹¹⁹ John Jewel, *An Apology of the Church of England*, ed. J.E. Booty (Ithaca, NY, 1963), pp. 74–75.

¹²⁰ Lancelot Andrewes, *Tortura Torti sive ad Matthaei Torti librum responsio* (Oxford, 1851), pp. 246–47, pointing to Gregory VII as the first pope who dared to absolve subjects of this responsibility.

¹²¹ Thomas Bilson, *The true difference betweene Christian subiection and unchristian rebellion wherein the princes lawfull power to commaund for trueth, and indepriuable right to beare the sword are defended against the Popes censures and the Iesuits sophismes vttered in their apologie and defence of English Catholikes: with a demonstration that the thinges reformed in the Church of England by the lawes of this realme are truly Catholike, notwithstanding the vaine shew made to the contrary in their late Rhemish Testament: by Thomas Bilson warden of Winchester. Perused and allowed publike authoritie* (Oxford, 1585), pp. 470–71.

¹²² Richard Baxter, *The difference between the power of magistrates and church-pastors and the Roman kingdom & magistracy under the name of a church & church-government usurped by the Pope, or liberally given him by popish princes opened by Richard Baxter* (London, 1671), p. 5: "And, alas, Occham, and Marsilius Patavinus, and Widdrington and Barclay came all too late."

including Marsilius and Aeneas Sylvius Piccolomini (Pope Pius II), against the papists.¹²³

Actual use of Marsilius' ideas varied. Two authors listed the major points made in his *Defensor pacis* in similar, but not exactly the same, terms. Simon Birckbek, in his *The Protestant's evidence*, noted that Christ excluded Himself and the apostles from all contentions for worldly power. Then he listed ten further points of difference between the Paduan and the papacy:

His other Tenets are reported to be these:

- *1. That the Pope is not superiour to other Bishops, much lesse to the Emperour.
- *2. That things are to be decided by Scripture.
- *3. That learned men of the Laiety are to have voyces in Councils.
- *4. That the Cleargy, and the Pope himselfe are to be subject to Magistrates.
- *5. That the Church is the whole co~pany of the faithfull.
- *6. That Christ is the Head of the Church, and appointed none to be his Vicar.
- *7. That Priests may marry.
- *8. That St Peter was never at Rome.
- *9. That the popish synagogue is a denne of theeves.
- *10. That the Popes doctrine is not to be followed.¹²⁴

Patrick Simson, a Scot, summarized Marsilius' ideas under nine headings, omitting the reference to the role of the laity in a council and to

¹²³ William Guild, *The old Roman Catholik, as at first he was taught by Paul, in opposition to the new Roman Catholick, as of latter he is taught by the Pope the one being apostolicall, the other apostaticall: derived and proven only out of the Epistle of Paul to the Romanes: whereunto is added a clear probation that the same also was the doctrine of the primitive bishops of Rome... discovering to all clearly the apostasie of that church from the ancient Roman fayth and puritie thereof to the noveltie of gross heresie and idolatrie, and sufficient to convince, if not convert, any papist that is not wilfully obdured / by W. Guild* (Aberdeen, 1649), p. 27: "And vnto whom I could adjoyn a cloud of mo witnesses, of their own most famous wryters; as Baptista Mantuanus, de calamitatibus temporum; Nicolaus Clemangis, de corrupto Ecclesiae statu; Marsilius Patavinus, in his *Defensor Pacis*, AEneas Sylvius: Afterward, Pope by the name of Pius secundus, in his *Epistolae familiares*; and of late Claudius Espencaeus, a Spanish Bishop, and others. But what hath bene adduced, may bee sufficient to such, who without a prejudice agaynst Trueth, haue not wedded themselues so to Errour, that lyke Babell they will not be cured: being so inebriated with that bewitching cup of the Filthiness of the Whores Fornications: that (as the Apostle sayeth;) GOD hath sent them strong delusion, to belieue a lie; because they would not [Note in marg: 2. Thess. 10. 11] receaue the loue of the trueth, that they may be saved."

¹²⁴ Birckbek, *The Protestants evidence*, p. 54.

the Church as “the company of the faithful.” Simson, however, added a reference to the election of bishops by their own clergy:

Amongst those witnesses of the truth Marsilius Patavinus is iustly numbered: who taking the defence of the Emperour Lewes against the Pope who did excommunicate him, affirms in his booke called *defensor pacis* that the Pope hath no authoritie ouer other Bishops, much lesse ouer the Emperour.

Secondly, that the word of God ought only to be iudge in all causes Ecclesiasticall.

Thirdly, that the Clergie and Pope should be subiect to Magistrates.

Fourthly, That the head of the Church is Christ, and that hee neuer appointed any vicar or Pope ouer his vniuersall Church.

Fiftly, That Bishops ought to be chosen by their owne Church and Clergie.

Sixtly, That the Mariage of Priests may be lawfully permitted.

Seuenthly, That S. Peter was neuer at Rome.

Eightly, That the Clergie of Rome is a den of Theeues.

Ninthly, That the doctrine of the Pope is not to be followed, because it leades to eternall death.¹²⁵

Both of these summaries can be identified as selective translations from the *Catalogus testium* of Flacius Illyricus.

Other references to Marsilius are too numerous to state in detail.¹²⁶ Suffice it to say that he was used to support a number of opinions usually found, by implication if not explicitly stated, in the two lists just reproduced. Only the most unusual statements will be documented at length. Thomas Forrester (1684) cited Marsilius as proof that Peter never was in Rome. So did William Jemeson (1697). Protestant apologists, Presbyterians especially, were fond of citing Marsilius' contention that bishops and presbyters once were of equal power. Among those who noted this were George Downname (1611), Paul Baynes (1641), Richard Baxter (1691), William Prynne (1641), and Thomas Forrester (1699). The English translation of Heinrich Bullinger's confutation of

¹²⁵ Patrick Simson, *The historie of the Church since the dayes of our Saviour Iesus Christ, vntill this present age. Devided into foure bookes. 1. The first containeth the whole proceedings and practises of the emperours... 2. The second containeth a breefe catalogue of the beginnings, and proceedings; of all the bishops, popes, patriarchs, doctors, pastors, and other learned men... 3. The third containeth a short summe of all the heretiques... 4. The fourth containeth a short compend of all the counsels general, nationall, and provinciall... Devided into 16. centuries... Collected out of sundry authors both ancient and moderne; by the famous and worthy preacher of Gods word, Master Patrick Symson, late minister at Striueling in Scotland* (London, 1624), p. 459.

¹²⁶ The texts mentioned below can be found in the database Early English Books Online.

Pope Pius V's bull condemning Elizabeth I (1572) and Richard Crakanthorpe's *The Defence of Constantine* (1621) made use of Marsilius' attack on papal temporal power. So did George Carleton (1606 and 1610), Thomas Gataker (1620), Isaac Barrow (1683), and John Maxwell (1689). William Guild (1655) picked up Marsilius' description of papal Rome as a den of thieves.

Attacks on Rome could become particularly detailed. John Foxe invoked Marsilius—along with Lorenzo Valla, Nicholas of Cusa, and Pius II—in his detailed refutation of the Donation of Constantine.¹²⁷ Crakanthorpe cited Marsilius' *De translatione Imperii*, probably from Goldast's *Monarchia*, in an attack on Baronius' description of the elevation of Otto the Great to the imperial office.¹²⁸ From a political viewpoint, Sir Henry Wotton argued that Jesus, Peter, and Paul all obeyed princes. The Apostles even obeyed city magistrates. In no way did they depart from Jesus' declaration that he had not come into the world as a ruler.¹²⁹ Richard Baxter¹³⁰ cited Marsilius as one of the few

¹²⁷ Foxe, *Actes and monuments*, p. 105, "In summe, briefly to conclude: who so desireth more abundantly to be satisfied touching this matter, let hym read the bookes of Marsilius Patavinus, intituled: defensor pacis, An. 1324. of Laurentius Valla, An. 1440. of Antoninus archbishop of Florence, who in hys hystorie, plainly denieth the tenour of thys donation to be founde in the old bookes of the decrees. Of Cusanus Cardinalis. Lib. 3. Cap. 2. wryting to the Councell of Basil, Anno 1460. Of Aeneas Syluius in Dialogo, of Hier. Paulus Cattalanus, An. 1496. of Raphael Volateranus, An. 1500. of Lutherus, An. 1537. &c. all which by many and euident probations, dispute and proue this donation taken out of a booke De gestis Syluestri, and translated (as they faine) by one Bartholomeus Picernus, out of Greke into Latine: not to procede from Constantinus, but to be a thing vntruely pretensed, or rather a fable imagined, or els to be the deede of Pipinus or Charles, or some such other, if it were euer the deede of any."

¹²⁸ Richard Crakanthorpe, *The defence of Constantine vvith a treatise of the Popes temporall monarchie. Wherein, besides diuers passages, touching other counsels, both generall and prouinciall, the second Roman Synod, vnder Siluester, is declared to be a meere fiction and forgery. By Richard Crakanthorp, Doctor of Diuinity* (London, 1621), p. 79 in margin.

¹²⁹ Henry Wotton, *The state of Christendom, or, A most exact and curious discovery of many secret passages and hidden mysteries of the times written by Henry Wotton...* (London, 1657), p. 171: "There [in Marsilius] you shall read, Note in marg: That the Popes excommunications are not to be feared, nor a lawful cause to invade...that Christ came not into the world to Rule, that he took not upon him to Command Princes, but that both he himself obeyed, and taught his Apostles to obey Princes. There you shall understand that Saint Paul the Apostle, Saint Peter, and other of Christs Disciples obeyed the Civil Magistrate, and submitted themselves unto Temporal Government. There briefly, you shall learn that not Clergy man ought to meddle with Temporal matters..."

¹³⁰ Richard Baxter, *A Christian directory, or, A summ of practical theologie and cases of conscience directing Christians how to use their knowledge and faith, how to improve*

who had seen clearly the distinction between extrinsic government of the Church and its intrinsic life. He called upon rulers to withdraw from the clergy their control of the former aspect of ecclesiastical life. This, Baxter said, was the best way to achieve both concord and reform. (One Anglican apologist, David Owen, blamed the excesses of the Puritans on the likes of John of Paris, Almain, and Marsilius, an odd set of bedfellows.)¹³¹

One aspect of Marsilius' thought appears almost never in these polemics: his discussion of Church councils. The English translation of Guillaume Ranchin did discuss the role of the laity in ecclesiastical assemblies. (He was able to cite even papal apologists, including Torquemada, who allowed laymen a limited role in councils.)¹³² Ranchin's use of Marsilius in criticisms of abuses perpetrated by Rome and control of Church polity by rulers is too detailed to be discussed here.

Although many English and Scottish apologists, as we have seen, cited Marsilius, it is harder to pin down any influence of the Paduan in the writings of Richard Hooker. There are parallels,¹³³ but they need careful analysis to avoid drawing conclusions based on resemblance.¹³⁴ Marsilian influence most often is discerned in connection with the large role conceded to the laity, especially to the ruler; but scholars who believe in such an influence have to admit differences, especially Hooker's making it difficult for a ruler to lose his place.¹³⁵ Hooker's knowledge of Marsilius is most plausibly derived from his teacher, John Rainolds, whom he paraphrased in at note to Book VII of *Of the*

all helps and means, and to perform all duties, how to overcome temptations, and to escape or mortifie every sin: in four parts ... / by Richard Baxter (London, 1673), pp. 833–34.

¹³¹ Oakley, *Political Thought of Pierre d'Ailly*, p. 219.

¹³² Guillaume Ranchin, *A review of the Councell of Trent Wherein are contained the severall nullities of it: with the many grievances and prejudices done by it to Christian kings and princes: as also to all catholique churches in the world; and more particularly to the Gallicane Church. First writ in French by a learned Roman-Catholique. Now translated into English by G.L* (Oxford, 1638), pp. 44–47.

¹³³ See, e.g., Previt -Orton, "Marsilius of Padua," pp. 165–67.

¹³⁴ See W.D.J. Cargill Thompson, "The Philosopher in the 'Politie Society': Richard Hooker as a Political Thinker," in *Studies in Richard Hooker: Essays Preliminary to an Edition of His Works*, ed. W. Speed Hill (Cleveland, 1972), pp. 3–76. See also Robert K. Faulkner, *Richard Hooker and the Politics of a Christian England* (Berkeley, 1981), pp. 159–61.

¹³⁵ F.J. Shirley, *Richard Hooker and Contemporary Political Ideas* (London, 1949), pp. 112, 104.

Laws of Ecclesiastical Polity when discussing the origins of episcopacy.¹³⁶ Rainolds had cited Marsilius's opinion that bishops and priests had once been equals.¹³⁷ (In his controversy with John Hart, Rainolds used Marsilius in a proof that the Church was the congregation of the faithful and not just the pope and the cardinals.)¹³⁸

English use of Marsilius provoked Catholic replies. The great Jesuit controversialist Robert Bellarmine identified Marsilius as a foe of the papacy in his massive *Controversiae*. Among the arguments of opponents Bellarmine mentioned while defending the translation of the empire from Constantinople to the West by the papacy was one Pighius attributed to Marsilius, an argument that the Roman people alone had effected this transfer.¹³⁹ Bellarmine also appealed to Torquemada's authority to deny the Marsilian idea that the emperor could correct a pope who governed badly.¹⁴⁰ His defense of the papal power to command obedience, compared to that of any "political prince," also mentions the contrary opinion of Marsilius, alongside the error of the Waldensians.¹⁴¹ Torquemada's authority was additionally invoked in defense of the episcopate against Marsilius and John of Jandun,

¹³⁶ *The Folger Edition of the Works of Richard Hooker*, ed. W. Speed Hill, 7 vols (Binghamton, NY, 1977–98), 6:325, note 27, 354–55, 936–37; W.D.J. Cargill Thompson, "The Source of Hooker's Knowledge of Marsilius of Padua," *The Journal of Ecclesiastical History* 25 (1974), 75–81.

¹³⁷ Francis Knollys, *Informations, or a protestation, and a treatise from Scotland Seconded with D. Reignoldes his letter to Sir Francis Knollis. And Sir Francis Knollis his speech in Parliament. All suggesting the vsurpation of papal bishops* (S. l., 1608), p. 82.

¹³⁸ John Rainolds, *The summe of the conference betwene Iohn Rainoldes and Iohn Hart touching the head and the faith of the Church. Wherein by the way are handled sundrie points, of the sufficiencie and right expounding of the Scriptures, the ministerie of the Church, the function of priesthood, the sacrifice of the masse, with other controuerises of religion: but chiefly and purposely the point of Church-gouernment . . . Penned by Iohn Rainoldes, according to the notes set downe in writing by them both: perused by Iohn Hart, and (after things supplied, & altered, as he thought good) allowed for the faithfull report of that which past in conference betwene them. Whereunto is annexed a treatise intituled, Six conclusions touching the Holie Scripture and the Church, written by Iohn Rainoldes. With a defence of such thinges as Thomas Stapleton and Gregorie Martin haue carped at therein* (London, 1584), p. 671.

¹³⁹ Robert Bellarmine, *Extracts on Politics and Government from the Supreme Pontiff from Third General Controversy*, trans. George Albert Moore (Chevy Chase, MD, 1951), pp. 98–99.

¹⁴⁰ Robert Bellarmine, *Disputationum Roberti Bellarmini politici. s.r.e. cardinalis, de controversiis christianae fidei. Adversus hujus temporis haereticos, quatuor tomis comprehensarum*, 4 vols (Milan, 1721), 1:678, citing Book II, c. 93 and Book IV, part 2, c. 37 of the *Summa de ecclesia*.

¹⁴¹ Bellarmine, *Disputationum*, 1:847.

who had argued for the equality of all bishops and presbyters in the early Church.¹⁴² Marsilius further emerged as an issue in Bellarmine's polemics inspired by the defense of monarchic power over ecclesiastics written by William Barclay.¹⁴³ One of Barclay's defenders, Roger Widdrington, citing the *Institutes* of Azorius, argued that Marsilius "was not necessarily a heretic." Bellarmine was quick to argue that Azorius—who did not really agree with Marsilius—still was citing a dangerous author in a way that suggested agreement on absolutely separating the natural and supernatural orders.¹⁴⁴ (Adolphus Schulken supported Bellarmine in his polemic against Widdrington, including the assertion that he had followed Marsilian errors.)¹⁴⁵

The Spanish Jesuit Francisco Suarez also pointed to Marsilius as a source of error. In his *De legibus*, Suarez, defending papal coercive power in spiritual matters, cited Pighius, Alvarus Pelagius, Alphonso de Castro, and Gabriel Dupréau on the errors of Marsilius. Suarez described the Paduan as the principal author of the belief that the pope had no such power of coercion and the related denial that bishops had more power than did simple priests. Marsilius' support of the attempted intrusion of Peter of Corbara into the papacy also was mentioned.¹⁴⁶ In his *Defensio fidei*, directed against the English oath of allegiance, Suarez blamed attacks upon ecclesiastical immunity upon Marsilius, "Illyricus" (Flacius), and "other inventors of new schism."¹⁴⁷ Once more citing Pighius, Suarez blamed Marsilius for the error that moved Henry VIII to break with Rome, as well as for the erroneous ideas of King James I.¹⁴⁸ The Jesuit also noted that, although Marsilius did not deny the priesthood, he denied any hierarchical order in the

¹⁴² Bellarmine, *Disputationum*, 3:499–500.

¹⁴³ Barclay, a Scottish Catholic teaching at Angers, did not court the favor of King James I of England, although his son John did; see James Brodrick, *Robert Bellarmine: Saint and Scholar* (Westminster, MD, 1961), pp. 296–300.

¹⁴⁴ Peter Munz, *The Place of Hooker in the History of Thought* (London, 1952), p. 201. On Widdrington, see Brodrick, *Robert Bellarmine*, pp. 300–01.

¹⁴⁵ Rocaberti, *Bibliotheca maxima pontificia*, 2:119, speaking of the translation of the empire.

¹⁴⁶ Francisco Suarez, *De legibus* (IV 1–10): *De lege positiva canonica*, vol. 1, ed. Antonio García García (Madrid, 1981), pp. 3–6.

¹⁴⁷ Francisco Suarez, *Defensio fidei III*, vol. 1, ed. E. Elorduy and Luciano Pereña (Madrid, 1965), p. xciv; see Skinner, *Foundations*, 2:180.

¹⁴⁸ Francisco Suarez, *Defensio fidei III*, 1:89. Suarez also accused James, like Marsilius before him, of devising means of removing remedies against heretic princes; see *Selections from Three Works of Francisco Suarez S.J.*, 2 vols, ed. Gwladys L. Williams et al. (Washington, DC, 1944), 1:33, 2:685.

Church, making all priests equals.¹⁴⁹ Suarez also accused Marsilius of either confusing spiritual with temporal power or of denying that both can belong to a priest.¹⁵⁰ Suarez did say Marsilius permitted excommunication of heretical rulers but no stronger measures.¹⁵¹ (Luis Molina also defended clerical exemption from the authority of the temporal power. He cited John XXII's condemnation of Marsilius and pointed the reader to Pighius for a confutation of the Paduan's errors.)¹⁵²

Although Marsilius featured in these polemics and was, as noted above, being circulated in print, there is little evidence of a role for Marsilius in the most famous political debates of the seventeenth century. No mention is made of Marsilius by the likes of Hobbes, Filmer, and Locke in the British Isles. Only George Lawson drew upon Marsilius, especially when discussing the Church. External governance, he said, belonged to individual churches subject only to Christ, thus precluding a special role for Rome.¹⁵³ Lawson further referred to Marsilius when saying that the episcopacy was created to prevent schism.¹⁵⁴ He also cited the *Defensor pacis* when arguing that the weightier part of the citizenry can act for the rest in "judgment and discipline."¹⁵⁵ On the continent, Johannes Althusius can be found making use of the *Defensor pacis*. In the *Politica methodice digesta*, Althusius' arguments that clergy are subject to kings except in their own proper sphere and his denial that the pope could depose kings have Marsilian roots.¹⁵⁶ Speculation as to why Marsilius was not cited even in Hobbes' critique of papal pretensions lies beyond the scope of this essay. Marsilius' thread

¹⁴⁹ Francisco Suarez, *Defensio fidei* III, 1:91. On Marsilius as erring in faith by making all priests equal, see *Defensio fidei* III, 1:103.

¹⁵⁰ Francisco Suarez, *Defensio fidei* III, 1:107.

¹⁵¹ *Selections from Three Works of Francisco Suarez s.j.*, 1:335–36, 2:691.

¹⁵² Luis Molina, *Extracts on Politics and Government from Justice, Tract II*, trans. George Albert Moore (Chevy Chase, MD, 1951), pp. 73–74; Skinner, *Foundations*, 2:139.

¹⁵³ George Lawson, *Politica sacra et civilis*, ed. Conal Condren (Cambridge, 1992), p. 83.

¹⁵⁴ Lawson, *Politica sacra et civilis*, p. 140.

¹⁵⁵ Lawson, *Politica sacra et civilis*, p. 211. For more general comparisons of Lawson and Marsilius, see Conal Condren, "Resistance and Sovereignty in Lawson's *Politica*: An Examination of a Part of Professor Franklin, His Chimera," *The Historical Journal* 24 (1981), 673–81.

¹⁵⁶ *Politica: An Abridged Translation of Politics Methodically Set Forth and Illustrated with Sacred and Profane Examples*, trans. Frederick S. Carney (Indianapolis, 1995), pp. xxviii, 167, 194 Both authors also were concerned with the governance of cities; see Thomas O. Hueglin, *Early Modern Concepts for a Late Modern World: Althusius on Community and Federalism* (Waterloo, ONT, 1999), pp. 139–42.

of reception, almost invisible in the fifteenth century but substantial in the sixteenth and early seventeenth centuries, becomes invisible again by the mid-seventeenth century. He would become better known in the modern era than he was in some preceding centuries. In between, he would remain a bogey of papal apologists and a red herring to distract those trying to understand (not just refute) conciliarism.

APPENDIX: JUAN DE TORQUEMADA'S SUMMARY OF
THE ERRORS OF MARSILIUS

The following is excerpted from *Summa de ecclesia*, fol. 409r-v: Bk. IV, pt. 2, c. 37. The passages quoted from John XXII's decretal *Licet iuxta doctrinam* are indicated in quotation marks:

In extrauagantibus Ioan. 12 (!) Condemnantur sequentes errores & haereses Marsilii de Padua & Ioan. De Ianduno.

In extrauagante quae incipit, licet iuxta doctrinam apostoli condemna[n]tur specialiter septem errores quod Marsilius de padua & Ioan. De Ianduno dogmatizarunt. Quorum.

Primus est "q[uod] legitur" in euangelio Math. quòd Christus "soluit tributum Caesari quando staterem sumptum ex ore piscis illis qui petebant didragma iussit dari. Hoc fecit non condescensione & liberalitate suae pietatis, sed necessitate coactus."

Secundus "quòd beatus Petrus apostolus non plus fuit caput ecclesiae quàm quilibet aliorum apostolorum."

Tertio [!] quòd beatus Petrus "non habuit plus auctoritatis quàm habueru[n]t alii apostoli."

Quartus "quòd Christus nullum caput dimisit ecclesiae, nec aliquem fecit Vicarium suum."

Quintus "quòd ad Imperatorem spectat corrigere papam" "ac instituere."

Sextus "quòd omnes sacerdotes siue sit papal siue archiepiscopus [siue episcopus] siue sacerdos simplex quicunque sunt equalis auctoritatis & iurisdictionis ex institutione Christi sed quòd unus plus habeat alio hoc est secundum quòd Imperator concessit" ita "reuocare potest."

Septimus "quòd papa uel tota ecclesia simul iuncta nullum homine[m] quantumcunque sceleratum potest punire punitione coactiua nisi Imperator daret eis auctoritatem."

CONCLUSION

Gerson Moreno-Riaño and Cary J. Nederman

In 1951, Alan Gewirth published the first major treatment of Marsilius of Padua's political ideas in the English speaking world. Gewirth's *Marsilius of Padua and Medieval Political Philosophy* provided a brilliant survey of the Paduan's political thought as found in the *Defensor pacis*. Gewirth understood that an accurate understanding of Marsilius's theory was no easy feat. His words are still instructive today:

An interpretation which treats philosophy solely as a piece of propaganda or rationalization, or as exhaustively confined by its historical context, leaves unexplained the important lessons which it has for later ages and ignores the conceptual framework upon which it is based. On the other hand, if the particular circumstances and problems which give concrete meaning to its concepts are overlooked, the result is an excessive generality and an anachronism frequently involving claims of prophetic anticipation which ignore important differences both in institutions and in doctrines.¹

The muddiness of history, as one could put it, led Gewirth to write that the "political philosophy of Marsilius of Padua, contained in his one great work, the *Defensor pacis*, provides a supreme example of these difficulties of interpretation."²

Each chapter in this volume testifies to the rich and complex nature of Marsilius of Padua's political thought attested to by Gewirth. The attempt to reconstruct Marsilius *the scholar* provides one with a multi-layered portrait of a medieval Christian educated as a Parisian master well-versed in theology, philosophy, history, canon law, and medicine. Marsilius draws from these various disciplines in the articulation of his political thought. He also uses numerous sources in the construction of his argument and work. It is clear that Marsilius takes seriously both the Old and New Testaments of the Christian scriptures, particularly the New Testament accounts of the life of Christ and the early

¹ Alan Gewirth, *Marsilius of Padua and Medieval Political Philosophy* (New York, 1951), p. 3.

² Gewirth, *Marsilius of Padua*, p. 3.

Christian church. Yet he is clearly influenced by Greek and Roman intellectual traditions through the writings of Aristotle, Cicero, Augustine, and others. Marsilius *the scholar* therefore maintains a continuity with previous intellectual traditions and concerns of political thought, while at the same time pioneering a new applied political thought for his own historical reality.

Just as important as Marsilius *the scholar* is Marsilius *the politician*. Indeed, it would be a gross error to separate the scholar from the politician. The Paduan is one figure in a long list of political philosophers and thinkers who have attempted to apply their political principles directly to political realities in such a way as to criticize and reform the conditions with which they were confronted.³ What is difficult to ascertain is the degree to which Marsilius' own political aspirations were distinct from his political principles. It is one thing to seek to apply principles through political media. It is quite another to use principles to further one's own aspirations. Marsilius' time at the University of Paris, his sojourn at the court of Ludwig the Bavarian, and his behavior during the imperial coronation offer scholars very complicated and nebulous source material for Marsilius *the politician*. Was Marsilius of Padua a man of principle willing to labor intensively and passionately to realize a vision? Was the Paduan simply a political opportunist? This is certainly an area for further inquiry, although a definitive solution may be beyond research of the historical record.

What of Marsilius *the political thinker*? Marsilius is one political thinker who has been interpreted and re-interpreted in numerous and often conflicting manners. Was he a republican, an imperialist, a democrat, or a corporatist? Was he a Christian or a secularist? Was he an Augustinian, an Aristotelian, a Ciceronian, an Averroist? Or a precursor to Machiavelli, Luther, Althusius, or Hobbes? The chapters in this volume implicitly validate the position that Marsilius was a political syncretist, in the sense that he employed numerous intellectual authorities as well as bodies of knowledge and fused them together in a creative and innovative manner to address the problems of his time. This is not to suggest that the political thought of the Paduan lacks certain core principles and doctrines. It is clear that Marsilius champions a unified political power structure and a commitment to

³ See Neal Wood, *Reflections on Political Theory: A Voice of Reason from the Past* (New York, 2002).

Christianity as well as common sense. Beyond these core narratives, though, Marsilius' thought demonstrates an immense flexibility, resilience, and innovative adaptability. Even more certain is the fact that the Paduan's thought embodies a courage and boldness that is uncharacteristic for medieval political thought.

There is no doubt that scholarship on the political thought of Marsilius has experienced a notable flourishing during the last half-century or more. Is there anything else that can be done? Only a few years ago, one of us identified a number of unexplored regions in Marsilian studies.⁴ In the interim, the boundaries of inquiry have been significantly extended, often by the authors who have contributed to this Companion. Still, several topics suggest themselves for further investigation. For instance, Takashi Shogimen's chapter raises the question concerning the most appropriate context through which to read and interpret the work of Marsilius of Padua. Shogimen introduces the medical metaphor as another important context for understanding the Paduan. Shogimen also re-introduces the possibility of another context—an astrological one—through which to consider Marsilius' work. Jeannine Quillet first introduced this possibility in the latter half of the twentieth century, yet no scholar has further explored this intriguing possibility. An investigation concerning Marsilius' use of astrology in his political thought could add another important dimension to our understanding of his work as well as enrich his persona in the canon of Western political thought.

Another area requiring further exploration arises from Marsilius' theological commitments and biblical hermeneutics. In his contribution to this volume, Michael J. Sweeney notes that most scholarship on Marsilius focuses on his political philosophy and not his theology. This suggests that most scholars still consider his political thought as the fundamental unit of analysis. What if a particular theology and hermeneutical tradition is more fundamental? If this is the case, then it raises the possibility that scholars need to explore Marsilius the *theologian* alongside Marsilius the *political thinker*. This would certainly expand the range of interpretations of his work, as well as contribute to an area of scholarship that is still quite untouched.

⁴ Cary J. Nederman, "Marsilio of Padua Studies Today—and Tomorrow," in *The World of Marsilio of Padua*, ed. Gerson Moreno-Riaño (Turnhout, 2006), pp. 11–28.

Moreover, there is still much to be said about Marsilius's knowledge and deployment of textual sources and authorities, and the related issue of his rhetorical and argumentative strategy in his writings. This problem has multiple facets. Conal Condren a number of years ago raised the question of the nature of Marsilius's linguistic and intellectual practices in the *Defensor pacis*.⁵ Very recently, Mary Elizabeth Sullivan has returned to this dilemma.⁶ Yet, this line of research is in its relative infancy. Until we understand more completely how and why Marsilius used texts in the way he did—not merely his overt citations but also his misattributions and manipulations and unacknowledged sources—we shall be at a loss to offer an adequate assessment of his achievement.

A final frontier for scholarly investigation is perhaps the broadest and most difficult one. Was Marsilius an ancient, a medieval, a modern, or was he just confused? This question resides at the core of various interpretative schema and disagreements concerning the place of the Paduan in the canon of Western political thought. One finds enough clues in Marsilius' works to suggest that aspects of his thought fit quite well into various categorizations of history. Perhaps this suggests that the Paduan himself is not to blame as a sort of chameleon-like thinker but, rather, that our own characterizations and understandings of the past are highly artificial and flawed. Perhaps further work in this area could lead to a re-articulation of the past along lines different from those currently conventional. In sum, the success of this Companion depends upon the extent to which it both summarizes the present state of scholarship and opens up new and innovative paths of inquiry. Our ultimate lesson is that, for all of the developments and discoveries in Marsilian studies during the past few decades, there is much, much more to be done.

⁵ See especially Conal Condren, *The Status and Appraisal of Classic Texts* (Princeton, 1985), pp. 189–97.

⁶ Mary Elizabeth Sullivan, "Democracy and the *Defensor Pacis* Revisited: Marsiglio of Padua's Democratic Arguments," *Viator* 41 (Autumn 2010), 257–70.

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